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International Court of Justice

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Official Transcript of the International Military Tribunal in the matter of the United States of America, the Franch Republic, the United Kingdom of Great Britain and Northen Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany on 13 May 1946, 1000 to 1300, Lord Justice Lawrence, Presiding.

DR. KRANZBUEHLER: With the permission of the Tribunal I would like to submit my remaining documents, and then as my first witness I shall use Admiral Wagner.

The next document I come to is Doenits 37. It is an extract from the documents of German Politics about the Altmark case. I do not propose to read it. It is from the reports of the Captain of the Altmark. He has reported that the sailors of the Altmark were shot when they were escaping into the water, partly across the ice. There were seven dead.

Ittcan be found, Mr, President on page 78. It is volume No. 2 on page 79. It is shown that this entire action did not find full recognition in spite of the bloody incidents which no doubt were regretted by the Admirality.

The next document is Doenitz 39. It has partly been read by Sir David Maxwell Fyfe during cross examination and can be found on page 81 and the following pages.

It deals with the question of reprisals following a report received regaring the shooting of the survivors of a German ship, Ulm.

On page 83 there is a summary regarding the incidents which had been reported to the German Naval Command at that time, and which contained examples delaing with cases where survivors were shot at by Allied Forces. I am not so much interested in these twelve actual examples but entirely in the attitude adopted by the Naval Command Staff, and the example were, of course, submitted to German Naval Command and Staff.

I would like to read the third sentence from it, which can be found on page 83, at the top.

"The following accounts deal with incidents which, as directed, have already been reported, and in making use of them it must also be considered, that

a) Some of these incidents occured before the battle had been closed;

b) Shipwrecked persons swimming about in the water easily mistake shots

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which missed their real target, as directed against them.

c) so far no evidence has been found whatsoever that a written or oral order for the shooting of ship wrecked persons has been issued."

The idea of reprisals did not only occur to the Command, but it also occur to the personnel serving on the ships at the front.

Now we come to Document Doenitz 41, which is on page 87, and it deals with a conversation Lt. Commander Witt had with Admiral Doenitz. The actual conversat took place in June of 1943, and it is dealt with an affidavit made by Lt Command Witt. After discussing the story of an attack made by British Fliers on shipwrec German submarines the thought was then expressed, that as reprisals the order sha be issued to shoot on survivors of enemy ships as well.

The affidavit also orders in its third paragraph:

"The Commander declined the idea sharply of attacking the enemy after having made him defenseless in combat, they were incompatible with our way of warfare."

I shall then refer to the Prosecution Document, GB-205, and shall submit a document of my own connected with it, which deals with the question of terror attacks. It is an extract from Document GB-194 of the Prosecution, and it can be found on page 91.

It deals with the question of whether in the case of scuttling of German ships, there should be the duty of rescuing the crews.

The French press desires to turn down such an idea pertaining to an emergency situation which is involved, and the same document contains a report according to which British warships have had certain instructions to permit further scuttling of German ships.

I now shall try to prove that the principle according to which no Command is to take rescue action if he endangers a valuable ship, is justified.

For that purpose I refer to Doenitz Document 90, which is in the 4th volume of the Document Book. It is an affidavit of Vice Admiral, retired, Rogge, and he reports that in November 1941 --

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THE PRESIDENT: What page?

DR. KRANZBUEHLER: Page 258. It is in the fourth volume of the document books.

He is reporting that in November 1941 in his auxiliary cruiser he was sunk at a great distance by a British cruiser and that the survivors had taken to the boats. This was towed away by a German submarine to a German supply ship and this supply ship too, a few days later, was sunk at a long distance by a British cruiser. Once again the survivors took to the boats and to the floats. The affidavit closes with the words:

"At both sinkings no attempt was made, possibly due to danger involved for British cruiser, to save even individual crew members."

The principle that avaluable ship must not even be risked to save its own personnel is expressed in the classical, clear conception in the British Admiralty Order, which I have already submitted a s document 67 and the extract is printed on page 96. There it says:

"No British ocean-going merchant ship should aid a ship attacked by U-boats."

THE PRESIDENT: Where are you reading now?

DR. KRANZBUEHLER: Document Book volume 2, page 96.

THE PRESIDENT: Yes.

DR. KRANZBUEHLER: No British ocean-going merchant ship should aid a ship attacked by U-boats. Small coastal ships, fishing steamers and other small ships with little draught should give all possible aid."

The next document I am submitting is Doenitz 44, which is on page 97. It is a questionnaire for Vice-Admiral Kreisch, who based on a decision by the Tribunal was interrogated as a British prisoner of war. From January 1942 to January 1944 he was the chief, the officer in charge of submarines in Italy, which means that he was responsible for the submarine warfare in the Mediterranean.

According to his statements he knows of no order or no suggestions regarding the killing of survivors and the way he instructed his commanders wa by saying that rescuing measures must not endanger the safety of their own shi

I shall now come to the questi n whether Admiral Doenitz was a member of Reich Government and in that connection I should like to ask the Tribunal to t judicial notice of the German Armed Forces Law of 1939 which can be found on

page 105 of volume 2 of my document books. Paragraph three will show that ther was only one minister for the German ArmedForces and that was the Reich Minister for War.

On the following page in paragraph 37 it is shown that this one minister had the right to issue legislative orders.

On page 107 I have one more printed decree which has been submitted to the Tribunal as 1915-PS and in which decree, dated the 4th of February, 1938, the post of the Reich Minister for War is abolished and the tasks of his ministry are transferred to the supremecommander of the OKW, the head of the OKW. No new ministry for the army or the navy is being established.

The Prosecution have described admiral Doenitz as a fanatical follower of the Nazi Party. The first document to prove this statement, which is dated th 17th of December, 1943, is GB 185. Considering the time factor I shall refrai from reading a few sentences from it which will show that anything that Admira Doenitz mayhave said about political questions was said from the point of view of the unity and strength of his soldiers. May I ask the Tribunal to take judicial notice of this document, which is on page 103 and 104?

THE PRESIDENT: Volume 2?

DR. KRANZBUEHLER: Volume 2, yes, sir, page 103 and 104. On page 104 whi deals with the handing over of Navy shipyards to the Ministryof Rearmament, a matter which was arranged in the autumn of 1943. It is an important question, important for the responsibility regarding the use of labor in the shipyards, something which has been touched upon repeatedly in this Court room This tendency towards unity becomes clear from yet another document of the Prosecution, from which I propose to read one sentence. It is GB 186. In the British trial brief it is on page 7. I shall only read the second and third sentences.

"As officers we have the duty to be guardians of the unity of our people. Every disunity would also affect our troops." The following sentence deals with the same thought at length.

THE PRESIDENT: British trial brief page 7? Mine has only five pages. You mean the document book?

DR. KRANZBUEHLER: It is the British document book, not the trial brief the document book, second and third sentences on page 7, Mr. President.

The fact that Admiral Doenitz was not a fanatical follower of the Party

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but that on the contrary he fought against a political influence exercised upon the armed forces by the Party is shown in my following document, which is document number 91. It is on page 260 of the document book number four. It is an affidavit from thechief of the legal department in the Command Staff of the Navy, Dr. Joachim Rudolphi. The Soviet Prosecution have already used this document during their cross-examination.

I should like to very briefly summarize the contents, which show that in the summer of 1943 Reichsleiter Bormann made an attempt through the ReichMinister of Justice to deprive the armed forces courts of their jurisdiction in certain matters. They were to be transferred to the peoples' court and special courts. The attempt, however, failed. It failed due to a report which Admiral Doenitz made verbally to the Fuehrer on this subject and during which he contradicted the opinion and intentions of the Party violently. After the attempt of the 20th of July Bormann renewed his attempt. Again Admiral Doenitz intervened but this time without success. A decree was issued on the 20th of September, 1944 which deprived the armed forces courts of their jurisdiction regarding so-called political perpetrations. This decree was signed by Adolf Hitler and by special request of the supreme commander of the Navy was not applied to the Navy, as such

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I shall read the last, but one, paragraph of the affidavit, which ways: "This attitude of the C. in C. of the Navy made it possible for the Navy as the only branch of the Armed Forces until the end of the war not to have to transfer to the People's Court or to a Special Court any criminal procedures o political coloring."

On page 113 in Volume 2 of my document book I have printed an extract fr GB 211, a document of the prosecution, and this is an application of the Commander in Chief of the Navy, addressed to the Fuehrer, asking for supplies for the construction of new merchant ships. During the examination, interrogation and cross examination of Admiral Doenitz this document has already been referred to. I should merely like to point out that this is a memorandum containing more than twenty pages and the prosecution had taken up two points conatined therein.

The original of the document is dealt with in document 46, which is on page 117 and the following pages. This is an affidavit from the officer who ha drafted this memorandum. I can summarize the contents. The memorandum is concerned with measures which didn't actually come within the sphere of the C.I.C. of the Navy. It arose on the basis of a discussion which took place between all persons interested in the construction and repair of war and merchant Navy vessels. All these measures are being summarized in this memorandu The point objected to in particular by the prosecution is a suggestion regarding certain measures in shipyards where sabotage had occurred, which appears o page 119 and is dealt with in detail. I should like to point out particularly that at that time seven out of eight ships under construction were destroyed by sabotage. When reprisal measures were considered, not terror measures were thought of but the deprivation of certain advantages and, if necessary, concentration of workers in camps adjoining the shipyards, so as to cut them off from any sabotage agents.

Following the document GB-209 of the prosecution, which deals with the renunciation of the Geneva Convention, I submit Doenitz No. 48, which is on page 122 and the following pages. It will show the excellent treatment afford

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Allied prisoners of war in the only prisoner of war camp which was under the jurisdiction of Admiral Doenitz as the Supreme Commander of the Navy. To begin with, the document contains an affidavit from two officers who dealt with prisoner of war affairs in the Supreme Command of the Navy, and which state that all the suggestions of the International Red Cross regarding these camps were always followed.

The next extract is the report from the last Commandant of that camp, Captain Rogge, and I should like to read the second paragraph from that report, "In the camp Westertinke there were housed at my time about 5500 - 7000, at the end 8000 prisoners of war and internees of different nations, mainly members of the British Navy. The camp had a good reputation as was generally known, it was the best in Germany. This was expressly stated at a congress of British and other prisoners of war physicians of all German camps, which took place in Schwanenwerder near Berlin at the Villa Goebbels in December 1944. This statement was confirmed by the British Chief Camp-Physician in Westertinke, Major Dr. Harvey, British Royal Army, whom I am naming as a witness." I shall also read the last paragraph on page 126: "As I was Deputy Commander I stayed at the camp up to the capitulation and gave up the camp in the regular way to British troops, which were very satisfied with the transfer Squadron-Leader A. J. Evans gave me a letter confirming the latter. I enclose a photostat of this letter." This photostat copy appears on the following page and it says: "Korvettenkapitan W. Rogge was for ten months Chief Lager Officer at the Marlag Camp at Westertinke. Without exception all the prisoner of war in that camp have reported that he treated them with fairness and consideration." Then follows an affidavit from the Intelligence Officer in that campt. I should like to point out that this officer was born in February of 1865 and that his age alone would, I think, exclude the use of any terror measures.

I shall read from page 129, the third and last paragraph: "No pressure of any type was applied. If a man was lying then he was sent back to his bunk?? and he wasn't hired again until two or three days later. I think I can say that during the entire time nobody was hit in that camp."

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I should now like to briefly refer to the accusation raised against the defendant according to which he is "a fanatical Nazi", supposed to have prolonged an unnecessary way. I submit for this purpose Document No. 50, which contains statements made by Admiral Darlan, Mr. Chanberlain and Mr. Churchill in 1940. They will be found on page 132 and 133 of the document book and they will show that the aforementioned persons did also consider it right that in a critical situation a nation should be called upon to render the utmost resistance, partly, incidentally, with success and partly without. During his examination Admiral Doenitz has quoted as the reason for his views that he wanted to save German Nationals in the East. As evidence I draw your attention to Document GB-212, which can be found on page 73 of the British document book. It is a decree of the 11th of April, 1945, and I shall read two sentences under Figure 1: "Capitulation means for certain the occupation of the whole of Germany by the Allies along the lines of the partition discussed by them at Yalta. It means, therefore, also the cession to Russia of further considerable parts of Germany west of the River Oder. Or does anyone think that at that stage the Anglo-Saxons will not keep to their agreements and will oppose a further advance of the Russian hordes into Germany with armed forces at the beginning of war with Russia for our sake? In this respect, therefore, the idea is wrong. Let the Angle-Saxons in the country; then at least the Russians will not come."

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I shall also quote from the document, GB-188, which is on page 11 of the document Book of the Prosecution. It is an order to the German Armed Forces, dated the 1st of May, 1945. I shall quote the second paragraph:

"The Fuehrer has designated me to be his successor as Head of State and as Commander-in-Chief of the Armed Forces. I am taking over the Supreme Command of all branches of the German Armed Forces with the will to carry on the struggle against the Bolshevists until the fighting forces and hundreds of thousands of families of the German eastern areas have been saved from slavery and destruction.

This, Mr. President, is the end of my documentary evidence.

Two interrogatories are still outstanding. One is that of Captain Roesig and the other of Captain Burren. Furthermore -- and this is something I particularly regret -- the interrogatory from the American Chief Admiral, Nimitz, has still not yet been received. I will submit these documents as soon as I have received them.

And now, with the permission of the Tribunal, I should like to call my witness, Admiral Wagner.

MR. DODD: Mr. President, while the witness is being brought in, I would like to raise one matter with the Tribunal. On Saturday I understand the Questio of when the witness Hewel would be called was raised before the Tribunal. And as I understand it from the record, it was left for Counsel to settle the matter as to whether he should be called before the Raeder case comes on or after that case.

I should like to say that we have some reasons for asking that he be called before the Raeder case, and there are two: First of all, he is here in the prison under a kind of confinement different from that under which he has been held by the French in French territory; and secondly, the officer, Lieutenant Meltzer, who has been assisting in the Funk case is very anxious -- for compelling personal reasons -- to return to the United States and of course he will not be able to do so until we have concluded the Funk case. And, Mr. President, it will not take very long in my judgment to hear this witness. He is only here for cross-examination on his affidavit and we would appreciate it if he could come on at the conclusion of the Doenitz case.

THE PRESIDENT: Very well, Mr. Dodd, he can be brought on for cross-examination after the Doenitz case.

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(The witness, Gerhard Wagner, came to the witness-stand.)

BY THE PRESIDENT:

Q Will you state your full name please?

A Gerhard Wagner.

Q Will you repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withold and add nothing.

(The witness repeated the oath.)

You may sit down.

DIRECT EXAMINATION

BY DR. KRANZBUEHLER:

Q Admiral, when did you join the German Navy?

A On the 4th of July, 1916.

Q Which positions did you hold in the Supreme Command of the Navy, and at what time?

A From summer, 1933, until the summer of 1935 I was dealing with work in the operations department of the Supreme Comma nd. I was Lieutenant Captain and then a Captain.

In 1937, from January until September I had the same position. From April, 1939, until June 1941, I was the head of the operations group and I was also the head of Department 1, and operational department of the Naval Command Staff.

From June, 1941 --

THE PRESIDENT: Not quite so fast.

A (Continuing) From June, 1941, until June 1944, I was the chief of the operations department of the Naval Command Staff. From June, 1944, until May, 1945, I was Admiral for special tasks attached to the Supreme Commander of the Navy.

Q In practice, therefore, during the entire war you were a member of the Naval Command Staff?

A Yes, sir.

Q Which were the general tasks of the Naval Command Staff --

A Tasks of the Command Staff both at sea as well as regarding the defense of the coast, and also protection of our own merchant ships.

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BY THE PRESIDENT:

Q. One moment. Will you make a slight pause after the question has been asked, between the question and the answer?

A. Very well.

The tasks of the Naval Command Staff were all those tasks of attending to naval warfare, both at sea and the defense of the coasts, and also the protection of our own merchant shipping. As far as territorial tasks were concerned, the Naval Command Staff did not have any such tasks at home, nor in occupied territories.

Q. Was the Naval Command Staff part of the OKW -- please, will you make a pause between my question and your answer?

A. The Naval Command Staff was part of the Supreme Command of the Navy.

Q. What were the conditions between the Supreme Command of the Armed Forces and the Naval Command Staff?

A. The OKW passed Hitler's orders, as the Supreme Commander of the Armed Forces, his orders and his instructions regarding the conduct of the war, on to the Supreme Command of the Navy; and as far as naval warfare was concerned, they were usually dealt with in accordance with the suggestions of the Naval Command Staff. General questions of the conduct of the war were decided without previous consultations with members of the Navy Command Staff.

Q. In which manner were the preparations of the Supreme Command of the Navy for the war carried out?

A. Generally speaking, they were general proparations, tactical training, strategic considerations for the event of a possible conflict.

Q. Did the Naval Command Staff during your time receive an order to prepare for a certain type and possibility of war?

A. The first instance was the order for Fall Weiss -- "Case White" -- the war against Poland. Before that, only measures of safeguarding were given us as tasks.

Q. When any plans prepared for the naval war against England?

A. A plan for the war against England did not exist at all before the beginning, the outbreak of the war. Such a war appeared to us to be outside

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any possibilities to be considered. Considering the superiority of the British fleet, which can't even be expressed in figures, and considering the domination of the strategy of the seas by England, such a war appeared to us to be absolutely hopeless. The only means by which Britian, considering her general superiority, could have been damaged, was by submarine warfare; but even the submarine weapon as such was by no means being given preferential treatment or accelerated treatment. It was merely dealt with considering the general picture of our fleet.

At the beginning of the war all we had were forty submarines ready to go to sea, of which -- as far as I can remember -- only fifty percent could have been used in the Atlantic. That is in comparison with the far-reaching naval means at the disposal of Great Britain, practically nothing at all. As a comparison I should like to cite the fact that both the British and the French Navy, different at the same time, have more than 100 submarines each.

Q. Captain Doenitz -- as he was at the time -- did he as the head of the submarines have anything to do with the planning of the war?

A. Captain Doenitz at that time was a subordinate commander, a subordinate front commander, under the command of the Chief of the Fleet, and he had the task of developing the young submarine commanders, train them and lead them in practice based on his experience of warfare.

Q. Did he in turn have any suggestions to make regarding the plans of the war?

A. No, these preparations and this planning, in particular for the Case White -- were exclusively the task of the Supreme Command of the Navy.

Q. Did Doenitz at any previous time hear about the intentions for preparations of the war?

A. No.

Q. Did he have any orders to carry out his orders --

A. I am afraid I didn't understand the last part of your question.

Q. Did Admiral Doenitz hear of the military intentions of the Navy Command Staff at an earlier time that it was necessary for the carrying out of the orders which he had been given?

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A No, he received his information by means of the orders which he was given by the Naval Command Staff.

Q Admiral Wagner, do you know of the London agreement of 1936, regarding submarine warfare? Did the Naval Command Staff draw any conclusions from the record of that agreement for their preparation for a war, in particular, a merchant navy war?

A Yes. The orders still existing from the last war were reconsidered and they were coordinated with the protocol of London. For that purpose a committee was formed in which sat representatives from the Supreme Command of the Navy, the Foreign Office, the Reich Ministry of Justice, and scientific experts.

Q This new prize regulation, was it made known to the commandant some time before the war or was it communicated to them just when it was published just before the war?

A These new prize regulations were published in '38 as an internal order for the navy and it was available for the purpose of training officers. During the autumn maneuvers of the fleet in 1938 a number of exercises were arranged for the purpose of instructing the officer corps in this new regulation and make them acquainted with it. I, myself, at that time --

THE PRESIDENT: Where are the new prize regulations you are referring to?

DR. KRANZBUEHLER: We are talking about the regulations published on the 26th of August, 1939, and which are contained in my document book. They are on page 137, in the third volume of my document book.

THE PRESIDENT: Thank you.

DR. KRANZBUEHLER: I beg your pardon: the date is not the 26th, but the 28th of August, Mr. President.

THE PRESIDENT: The witness has said that the exercises were carried out?

DR. KRANZBUEHLER: Yes. May I continue?

THE PRESIDENT: Yes.

BY DR. KRANZBUEHLER:

Q We were talking about 1938. Which conceptions did the Naval Command Staff have after the beginning of the war, regarding the development of the naval war, the war at sea against Britain?

A The Naval Command Staff thought that Great Britain would probably start

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where, at the end of the first World War, she had stopped. That meant that there would be a blockade against Germany, a control of neutral countries as far as their merchandise was concerned, introduction of a system of control, the arming of merchant navy vessels, and the disintegration of certain concentration territories.

Q I am now going to have the battle order of the 3rd of September, 1939, shown to you. It is Doenitz document No. 55. It can be found on page 139, in volume 3 of the document book. You will see from that that, to begin with, submarines, like other arms, had orders to adhere to this prize ordinance. And then, at the end of it, you will find an order which I propose to read to you. This is on page 140, a prepared order for the war against armed merchant ships of the enemy.

"First, troop and merchant navy vessels of the enemy are armed. Resistance must be expected. Submarines and merchant ships shall only be stopped if own vessels can't be endangered. Clearly recognizable ships can be let pass. If necessary, use of guns by merchant ships when stopping them."

I should like to ask you whether this order was a long prepared one or whether it was improvised at the last moment?

A At the beginning of the war we were forced to improvise all orders which we were issuing because there wasn't time to prepare them thoroughly.

Q Did this order become operative at all?

A No.

Q Why not?

A After consultation with the Foreign Office, we had decided that we would strictly adhere to the London agreement until we had clear-cut evidence of the British merchant navy being used for military purposes. We recognized the power of the enemy propaganda from the last war and we did not under any circumstances want to give them cause once more to speak about us in the worse possible way.

Q When, at what stage, did the military use of enemy merchant ships become clear to the Naval Command Staff?

A The fact that enemy merchant navy vessels were armed became clear after a few weeks of the war. We had a large number of reports about artillery fights which had occurred between U-boats and enemy merchant navy ships which werearmed. At least one or probably several boats were lost by us. One British steamer was, around about that tiie, praised public ly by the British Admiralty for its successes in combating submarines.

Q The Tribunal already has knowledge of the order of the 4th of October, allowing attacks against all armed merchant navy ships of the enemy, and also the order of October the 17th, allowing attacks on all enemy merchant navy ships with certain exceptions. Were these orders the result of experiences made by the Naval Command Staff regarding enemy merchant navy ships?

A Yes, exclusively.

Q Those orders are containing certain exceptions regarding passenger ships. They weren't even to be attacked when they were members of an enemy convoy. To what are these exceptions due?

A They were due to an order from the Fuehrer. At the beginning of the war he had stated that Germany did not have any intention of waging war against women and children. He wished, for that reason, that during the war at sea, too, any incidents should be avoided during which women and children might lose their lives. Consequently, even the stopping of any passenger ships was prohibited. The military necessities of naval warfare make it very difficult to adhere to this order, particularly, where passenger ships were travelling in enemy convoys. Later on, and step by step, this order was reduded and, when there was no longer any peaceful passenger traffic at all, after we knew that enemy passenger ships were particularly privileged; that is to say, particularly strongly armed, and where passenger ships, as long as they were still travelling, were more and more used as auxiliary cruisers and troop transport ships.

Q The orders of the German Naval Command regarding the fights

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against armed enemy ships, were they made known to the British Admiralty?

A. The announcement of war measures of that type was not know on either side during the war and it didn't take place for that reason. But, in October, the German press left no doubt whatsoever that every armed enemy merchant ship would be sunk by us. Later on it was equally well known that the entire enemy merchant navy was regarded by us as being under military direction and in military use.

These statements by our press must no doubt have been known to the British Admiralty and the neutral governments. Apart from that, and I think this was in October, Admiral Raeder gave an interview to the press which had a similar train.

Q. A memorandum was created in the middle of October, a memorandum of the Naval Command Staff, dealing with the possibilities to intensify the war against merchant shipping. I am going to have this memorandum shown to you. Its number is GB-224. Please, after looking at this memorandum, will you tell me what its purposes were and what the memorandum contains.

Mr. President, some extracts can be found on page 199, in volume 4 of the document book.

A. The situation to which this memorandum was due was this: With the beginning of the war on the 3rd of September, 1939, Britain had begun a total hunger blockade against Germany. Naturally, that was not directed only against the fighting men, but against all non-fighting members, including women, children, and aged people in Germany. It meant that Britain would block all food rations and all luxury goods and clothing, just as all raw materials would be declared to be contraband; and there a strict control of shipping would be introduced which would cut the neutral countries off from Germany, in practice at least, as far as it would have to go through waters controlled by Great Britain. Apart from that, England exercised a growing political pressure upon the European neighbors of Germany, trying to have them stop any exchange of merchandise with Germany. That intention of the total hunger blockade had been

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expressed by the chief of the British Government, Prime Minister Chamberlain, during the speech before the House of Commons at the end of September. This was emphatically confirmed by him. He described Germany as a beleaguered fort; and he added that it wasn't customary that beleaguered forts should have any type of freedom. That expression of the beleaguered fort was taken up by the French press.

Furthermore, Prime Minister Chamberlain stated at the beginning of October -- according to this memorandum it was on the 12th of October -- that in this war Britain would utilize her entire strength for the destruction of Germany. From this we drew the conclusion, also after the experiences of the last World War, that England would soon hit German exports under some pretext or other.

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With this impression in mind, and considering the total hunger blockade, something which had no doubt been prepared for a long time during peace, we now had to try and catch up. We, of course, had not prepared the war against Great Britain.

We investigated the situation both from the legal and military point of vie and we examined the possibilities at our disposal by which we might cut off Britain's supplies, That was the aim and purpose of that memorandum.

Q You are saying, therefore, that this memorandum contains considerations regarding means for countering the British measures with corresponding German measures, doesn't it?

A Yes, that was definitely the purpose of that memorandum.

Q Studying that memorandum you will find sentence, C-1 is the paragraph, according to which the Naval Command Staff would remain within the limits of International Law as laid down in Geneva, but that measures would even have to be introduced to which the existing International Law could be applied.

Did this mean that International Law was to be disregarded by the Naval Command Staff, or what is its meaning?

A That question was studied very carefully in the Naval Command Staff and discussed at great length at that time. I should like to point out that on page 2 of the memorandum, in the first paragraph, the thought is being expressed that the orders regarding decent warfare must be applied to all measures of the war at sea. That would prevent any outrages right from the beginning. We did think, however, that the modern technical developments would create conditions for naval warfare which would certainly necessitate further development of the laws of naval warfare.

Q Which technical developments do you mean?

A In the first place, I am thinking of two points:

First, the unusual and unique use of the airplane at sea, creating new conditions;

Second, the introduction of electrical equipment which made it possible, even at the beginning of the war, that an opponent who could not be seen could be found and fought against.

Q It says in this memorandum that decisive measures must be introduced even though they do create new laws at sea. Did any such measures really arise?

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A No --at any rate, not at once. In the meantime, I think on the 4th of November, the United States of North America declared the so-called American fighting zone, and the specific reason given for it was that in that zone actual battles, actual belligerent actions, would make the sea dangerous for American shipping. By this announcement some of the considerations of that memorandum were put out of date, and in practice we remained within the limits of such measures as had been employed by both parties during the First World War.

Q By these measures do you mean the warning against travelling into certai zones?

A Yes.

Q In some of the documents used by the Prosecution, numbers GB-194 and 226 submarines were permitted to attack without warning in certain territories at sea. The date is beginning with January 1940. The attack was to be carried out, if possible, on

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sight, and if possible the ficticious story should be kept up that there were mines.

Will you please tell the Tribunal which sea lanes were concerned in this, were affected by it? I shall have a map handed to you for that purpose. I am submitting it to the Tribunal as Exhibit Doenitz 93.

Please, will you explain what can be seen on that map.

A In the middle of the map you will find the British Isles. The large sea which is visible on the edge shows the mentioned battle zone, the battles zone I have mentioned, declared by the United States. The shaded parts of the sea near the British coast are those parts which were ordered to be German submarine operational zones. In accordance with the time when they were introduced, they were given letters from A to F.

Q Can you tell us up to which depth these German operational zones went?

A I think perhaps as far as the 200 meter, 600 foot line.

Q Does this depth allow favorable use of mines?

A Yes, down to 200 meters the use of mines is certainly possible without any difficulty.

Q In these operational zones, certain dates have been entered. Will you please explain how it happened that on those dates particularly, and in that sequence, these territories were made operational zones?

A All those parts were declared to be operational zones in which there was a bunching up of enemy traffic and where there was a concentration of the enemy defense, and of course, in consideration of the forces which we were using against it. In other words, wherever there were central points of fighting.

To begin with, they were the zones at the northern and southern end of the British mined zones, those which had been declared to be on the British East Coast, and apart from that, the Channel. You can see, therefore, Zone A is the territory of Scotland. There is the date January 6, the same -- no, I beg your pardon. In the Bristol Channel there is the date January 12, and eventually, at the southern end of this forbidden zone, there is the date of January 24. Later on, considering the actual development of the fight, further territories around the British Isles and off the French Coast were declared to be similar.

Q Up to what date did this development continue?

A The last zone was declared on the 28th of May, 1940.

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Q Had neutrals been warned against entering these zones?

A Yes, an official note had informed neutral countries that the entire USA fighting zone had to be considered as being dangerous, and that in the North Sea, both east and south of the German mines territory which extended to north of Holland, they should remain in that particular zone.

Q What difference does the situation described in this map, in comparison to the German declaration of a blockade of the 17th of August 1940, signify?

DR. KRANZBUEHLER: That is, Mr. President, the declaration I have submitted as Doenitz 104, which can be found on page 214 in Volume 4 of the document book.

BY DR. KRANZBUEHLER:

Q What difference was there between the situation created by that map and the declaration of August?

A As far as the limits of the danger zone are concerned, there was no difference in practice. This fact had been stated by Prime Minister Churchill in the House of Commons at the time. However, the difference which did exist was that up to that actual time, we confined ourselves to the area I have just described, near the British Coast, whereas now we were naming the entire battle zone as being operational zones.

The declaration regarding a blockade was based on the fact that in the meantime France had been eliminated from the war, and that Britain now was the focussing point of all belligerent action.

Q Did the German blockade zone in its entirety correspond with the USA battle zone?

A It was nearly exactly the same as the USA battle zone. There were merely a few insignificant corrections.

DR. KRANZBUEHLER: Mr. President, I am submitting another map, Doenitz No. 92.

THE PRESIDENT: I think perhaps that would be a good time to break off then.

(A recess was taken.)

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DR. KRANZBUEHLER: Now, Mr. President, as Doenitz No. 94, I wish to submit a chart of the German blockade, dated the 17th of August.

BY DR. KRANZBUEHLER:

Q Admiral Wagner, just to repeat once more, what were the limitations of the German blockade region and the first U.S. fighting zone?

THE PRESIDENT: I thought you had already told us that. You told us that the blockade zone was the same as the American zone, didn't you?

DR. KRANZBUEHLER: Yes, Mr. President, I believed that we had not been understood quite correctly before the recess.

BY DR. KRANZBUEHLER:

Q What was the naval practice on the side of your opponents as far as this region was concerned? Was there any practice that they followed?

A Yes, the practice on the part of the opponent was identical with ours. In the regions controlled by us in the Baltic, in the Eastern, North Sea, and the Skagerrak and later on in the Norwegian and French waters, the opponents used every possible means and used them without warning, without having notified us in advance just which means of combat our ships were to be sunk by -- U-boat, surface vessel, aircraft or whatever it might have been; and in these regions, the same thing applied to neutrals and especially in the later years.

Q Now, I would like to confront you with a statement by the First Lord of the British Admiralty. You will find this on page 208 of the document book, volume 4. This statement is dated the 8th of May 1940, and I have ascertained, Mr. President, that regrettably it was put down wrongly in the British book; therefore, I would like to quote from the origi. "In order to make this work as effective as possible, the usual restrictions which we have imposed on the actions of submarines

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were relaxed. As I told the House, all German ships by day and all ships by night were to be sunk as opportunity served." I should like to submit this as Exhibit Doenitz 102.

THE PRESIDENT: What is the difference that you were making in the copy we have before us -- "... all ships were to be sunk by day and German ships by night ..." Is that it?

DR. KRANZBUEHLER: Yes. The last sentence, Mr. President should be corrected to read "ships by day and all ships by night were to be sunk."

THE PRESIDENT: I see, I said ot wrong -- "and all ships by night." Yes, very well.

BY DR. KRANZBUEHLER:

Q Admiral Wagner, what was the significance of this statement and this practice so far as the German ships were concerned?

A It means that all German ships by day and by night in this area were to be sunk without warning.

Q And what does it mean for the neutrals and their ships?

A It means for them that all neutral ships in this area by night are to be --

THE PRESIDENT: Surely the document speaks for itself. We don't need to have it interpreted by a witness who isn't a lawyer.

DR. KRANZBUEHLER: Very well.

BY DR. KRANZBUEHLER:

Q Then, tell me, please, from what period of time onward, according to German experiences, did this practice obtain in Skagerrak?

A I can tell you with certainty from the 8th of April 1940, but I believe I recall that even on the 7th of April, the practice was adhered to in accordance to this.

Q This area at this period of time, that is, the 7th or

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8th of April, had it already been declared as such?

A No, the first declaration took place on the 12th of April, 1940, as far as this area is concerned.

Q Now, I shall have submitted to you a sea chart, dealing with the British warned off zones and this shall have No. Doenitz 92. Please explain this chart briefly to the Tribunal and explain its significance.

A This chart contains the danger zones as prescribed by England applying to European waters on the basis of German materials as received.

Of significance the following areas may be characterized: First of all, in the German Bay, which on 4-9-1939 -- that is, on the second day of the war -- was declared as such. Then the danger zone already mentioned briefly, the Skagerrak. South Norway, which was declared on the 12th of April 1940. Then the danger zone in the Baltic, on the 14th of April 1940; and adjacent to that the other danger zones as declared in the year 1940.

I should like to remark also that in my recollection these danger zones were declared as mine danger zones, with the one exception of the area of the Channel and of the Bay of Biscay, of the 17-8-1940. This was called a general danger zone.

Q These areas, were they dominated, as a matter of fact, by the British sea or air forces, or did German traffic still take place?

A In these areas there was a very lively German traffic took place. The Baltic Sea in its entire expanses to the West, about 400 sea miles of length, was declared a danger zone, and, in fact, during the entire war it was controlled and dominated by us. In this area there was an extensive traffic. The entire ore traffic from Sweden --

Q Was this just Germany or also neutral ships?

A This traffic was in German and Swedish ships, but other neutrals as well participated in this traffic, for instance, Finland. A similar situation applied in the Skagerrak where, besides the German supply trains, foodstuffs for the Norwegian population was transported. Of course during this time German and neutral ships were lost.

Q I assume that German and neutral seamen lost their lives.

A Yes. Personnel losses took place as well.

Q The German merchantmen at this time in which these operational zones were declared, were these German merchantmen armed -- that is, at the end of 1939 and the beginning of 1940?

A Until the middle of 1940 German merchantmen were not at all armed. From that period of time on a rather slight arming took place and anti-aircraft was inaugurated, and especially in regions which were very dangerous.

From the beginning certain ships of the Navy were armed, that is,

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state ships, which dealt with the supply of German cruisers and auxiliary cruisers in the Atlantic, and were performing their mission there.

Q Now I shall submit to you the document of the Prosecution, GB-193, which is found in the British document book on page 29. This document deals with an application by the commander of the U-boats that ships were to be sunk without warning in the Channel. Can you tell me just whose reasons we are dealing with, these reasons that are set forth in this document?

A From the signature found in this document I would say that we are concerned with a document of a U-boat expert in the Naval Warfare Staff.

Q And who was that?

A Kapitaenleutnant Friesdorf, who was under my jurisdiction.

Q Are these statements in accord with the actual situation that obtained, and were they approved by the Naval Warfare Command, or just how was the situation in dealing with them?

A Here we are concerned with the rather romantic ideas of a young expert, ideas which were in no way commensurate with the situation. The situatic was as follows:

At this time, that is, in September of 1939, the second wave of the British Expeditionary Corps left England for France. The transports ran on the whole during the night and were blacked out. At this time simultaneously there existed the order that French ships were neither to be stopped nor to be attacked. It is entirely clear that at night a blacked-out French ship cannot be differentiated from a blacked-out English ship, just as at night a merchantman can only with difficulty be differentiated or told apart from a war ship. These orders, therefore, meant that practically

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there could be confusion at night, and that German U-boats could not shoot at night, and, therefore, that the troop transport was entirely unhampered.

This brought about really grotesque situations. Then it was adcertained that a German U-boat in a good, favorable position of attack, confronted with an English transport with troops, had let this ship pass, even though they had 20,000 troops, since the possibility of confusion had been present.

The SKL gave the commander the right and told him that in this manner no naval war could be carried on. If a blacked-out ship was to be found in a belligerent area and on top of that in an area in which a strong supply and troop transport was going on, it would be suspicious and it could not be expected that the war would be halted at night for this reason. Therefore, we were not concerned with the question that we declared the sinking at sight of a ship and then gave the declaration that we had confused it, but the situation at hand was that such a blacked-out ship is to be blamed itself if it is confused and, as a result of this confusion, is sunk.

Q In these notes we find that the commanders of U-boats, when they were sinking a merchant ship without warning, that they should make the notation in their log that they had considered it a battleship and that an order, a verbal order, to this effect was to be given to the commanders of the U-boats. Is this not correct, and was this thought carried out in actual practice?

A No, nothing like that ever existed with us.

Q Then the commanders of the U-boats had strict and clear orders that at night in the Channel blacked-out ships may be attacked without warning.

A Yes. This clear order was issued, but nothing more.

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Q If the statements of this young officer are not correct, and if no orders were issued accordingly, how is it that these things may be found in the diary of the SKL, of the Naval Warfare Command?

A This paper is not a direct part of the war diary of the SKL, the Naval Warfare Command. The war diary itself recorded the daily happenings. This was carried on by a collaborator, and it was signed by me and by the commander-in-chief of the SKL. Here we are concerned with the writing down of an expert which was to be a part of a group if files, and they were considered the basis of the war diary.

Q That means, then, that reflections of collaborators were taken, and they were to be summarized without this actually having been approved or being put into practice.

A Yes. All of these materials were to be used for later purposes.

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Q Did the SKL, the Naval War Command, know the incident which happened after the sinking of the Laconia, and did it approve of the measures taken by the commanders of the U-boats?

A The SKL, then as always, listened in on the entire wireless messages that took place in the Laconia case. It approved of the measures taken by the commander, but it was not surprised at all at the commander in chief of the U-boats; and the first aerial attack on the U-boat would have stopped the entire rescue work.

Q Did the SKl know of the report of the commander in which rescue work was expereslly prohibited?

A This order as well was listened in on and was monitored by the Commander-in-chief for the U-boats.

Q Was this order interpreted by the SKL as such that it was to be an order for the shooting of shipwrecked people?

A No; no one ever had this idea.

DR. KRANZBUEHLER: Mr. President, at this point I should like to put several questions to the witness which have a bearing on the credibility of the witness, Heisig. But I should like to ask in advance whether there are any objections to my putting these questions, since my documents referring to the credibility of this witness Heisig were not ruled admissible.

THE PRESIDENT: Was the object of the questions which you were offering to put to this witness to show that the witness Heisig was not a witness who could be believed upon his oath? Was that your object?

DR. KRANZBUEHLER: The general object, Your Honor, is to show how the testimony of this witness originated; that is, the testimony which was submitted to the Court.

THE PRESIDENT: What do you mean by "originated"?

DR. KRANZBUEHLER: That is to say, Your Honor, the basis of which influence on the witness this testimony originated.

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THE PRESIDENT: What is the exact question you wanted to ask? Youmay state it, and we will let the witness wait until we have seen what the question is.

DR. KRANZBUEHLER: I should like to ask the witness, What did the witness Heisig report to you about the manner in which his affidavit came about which was submitted to the High Tribunal by the prosecution?

THE PRESIDENT: The question that you put, as I took it down, was, What did the witness Heisig report to you about the way his affidavit came about. Is that the question?

DR. KRANZBUEHLER: Yes, Your Honor.

THE PRESIDENT: What are you purporting to prove by getting the reports that Heisig may have made to this witness?

DR. KRANZBUEHLER: I should like to prove therewith, Mr.President, that Heisig was under a certain influence, and in this direction that he assumed incorrectly that he could help a comrade through his testimony.

THE PRESIDENT: Who applied for Heisig's affidavit?

DR. KRANZBUEHLER: I did not understand, Mr. President.

THE PRESIDENT: Heisig has given an affidavit, has he not?

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: That was for the prosecution, was it?

DR. KRANZBUEHLER: That is right.

THE PRESIDENT: And have you asked to cross examine him?

DR. KRANZBUEHLER: I did ask him, and I interrogated him about this in cross examination, yes.

THE PRESIDENT: You did?

DR. KRANZBUEHLER: Yes, I did question him; and I put to him the contradictions which existed between his testimony here and between his affidavit.

SIR DAVID MAXWELL FYFE: My Lord, I have not read the transcript in this point for about ten days. But I did read it then, and my recollection is that it was never suggested to the witness Heisig that he gave his affidavit under pressure, which I gather is the suggestion now. Your Lordship will remember that although we had the affidavit, we called the witness Heisig. He said that

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what was in his affidavit was true; and then he presented his evidence, giving a detailed account of all the relevant matters. So we made it perfectly possible for Dr. Kranzbuehler to cross examine him at the time and to show any differences, as Dr. Kranzbuehler just said he purported to do, between the affidavit and his oral evidence.

THE PRESIDENT: Dr. Kranzbuehler has just said, I think, that he did actually cross examine him.

SIR DAVID MAXWELL FYFE: He did cross examine him on that point, on any differences that appeared between his affidavit and his oral testimony. But he was here to be cross examined, and if it is going to be suggested that the affidavit was obtained by improper means, that suggestion ought to have been made at the time, and then it could have been dealt with.

My Lord, I object to its coming in at this stage, after the witness Heisig has been away, and therefore no opportunity has been given to us either to investigate the matter or to have the evidence here, which could have been done when Heisig gave his evidence; and we could have been prepared for any contradictory evidence now.

My Lord, as a matter of strictness, surely, if I may put it that way, there are two distinct lines. If it was a question of whether Heisig's evidence was admissible or whether it had been obtained under pressure, then it would be quite possible to have this trial within a trial as to whether it was admissible or not.

But if this evidence is, broadly, merely directed to the credibility of Heisig's evidence, then I respectfully submit it falls within the same objection I made on Saturday to general evidence directed against the credibility of a witness.

THE PRESIDENT: I do not think it is suggested that there was any pressure put by the prosecution upon Heisig. I do not understand that is what you are suggesting, Dr. Kranzbuehler, is it?

DR. KRANZBUEHLER: No, not at all. But the picture as drawn was not true.

SIR DAVID MAXWELL FYFE: I understood Dr. Kranzbuehler --- if I misunderstood him, so much the better -- to say that he wanted to give this evidence as to certain influence. I thought that was the word used.

THE PRESIDENT: I think he meant not influence exerted by the prosecution

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but exerted by a mistaken notion in the witness's own mind that he was helping a friend.

SIR DAVID MAXWELL FYFE: I see. Then, My Lord, that merely goes to credibility and it does then fall within my general objection; that is, if we are going to have evidence as directed on credibility, we can go on ad infinitum.

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THE PRESIDENT: Dr. Kranzbuehler, the Tribunal will allow this question to be put in this particular instance, but they make no general rule as to the admissibility of such questions.

DR. KRANZBUEHLER: Thank you very much Mr. President.

BY DR. KRANZBUEHLER:

Q Admiral Wagner, in December, you were in the prison here together with the witness.

A Yes, from the first until the fifth.

Q And what did Heisig tell you about the conceptions upon which his affidavit rested?

A he told me the following personally: At the interrogation he had been told that Oberleutnant Hoffman or Kapitaenleutnant Eck had testified that at that time he had listened to the speech by Doenitz at Erlhaven in the autumn of 1942, and that he had considered this as a demand for the killing of survivor of shipwrecks Heisig had been told "If you confirm this testimony of Hoffmann, then you will save not only Eck and Hoffmann, but two others who would have been sentenced as well. You will save them from death, and you will prevent judicial proceeding against the Captain from being instituted.

Of course, you will charge and accuse Grand Admiral Doenitz but the materi against Grand Admiral Doenitz is of such tremendous weight that his life has bee played away anyway."

Further he told me, and without prompting, that at that time, at the occasion of the speech by the Grand Admiral, he had been in a stress of spiritual conflict. He had been at Luebeck, and there he had seen the terrific consequences of an air attack. He had lived through this attack and he had seen the consequences-- well, perhaps he had not lived through it, but he had seen the terrific consequences. He was for revenge against these total measures, and he considered it possible that these happenings might have been influenced by Doenitz' speech.

Q Now we shall turn to a different point.

THE PRESIDENT: Sir David.

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: If the prosecution desire to do so, they can, of course, recall Heisig for the purpose of investigating this further.

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SIR DAVID MAXWELL-FYFE: If your Lordship pleases, Heisig is no longer here; that is the difficulty when this is done in this order. However, we can consider the matter, My Lord, and we are grateful to the Tribunal for the permission.

THE PRESIDENT: Is Heisig not in custody? Is that what you mean?

SIR DAVID MAXWELL-FYFE: Yes, My Lord, he is no longer in custody.

DR. KRANZBUEHLER: He is studying medicine at Munich, Your Honor, he can be very easily reached.

SIR DAVID MAXWELL-FYFE: Thank you.

BY DR. KRANZBUEHLER:

Q From what date on were you Admiral for special missions in the Navy and what were your tasks in that capacity?

A From the end of June 1944, oward, and the purpose of my mission was the following:

After the success of the Anglo-Saxon invasion in Northen France, and Admiral Doenitz counted on a much more critical situation in the war. He believed that one day he might be forced to separate himself from the Navy and its command, and that he might have to be at the Fuehrer headquarters for a longer period of time in order to stay abreast of the development of the entire war situation, or that there might be a transfer of the Naval Command -- that is, a change from Berlin -- because of the continued heavy air attacks. For this purpose the Grand Admiral wanted on alder and experienced naval officer in his immediate vicinity, an officer who was well versed in the problem of sea warfare and who knew

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about the entire problem of naval war.

My mission was, therefore, a sort of liaison connection between the Commander-in-Chief of the Navy, of the SKL and the other officers and departments, commanders-in-chief, for the duration of the separation of the Grand Admiral from the High Command.

Q. Did you accompany the Grand Admiral regularly on his visits to the headquarters?

A. Yes; from the period of time mentioned I was present regularly.

Q. Now I shall submit to you a list of these visits, which has been submitted by the prosecution as GB-207. This may be found in the document book of the prosecution on page 56.

Please look at this list and tell me whether the dates recorded there are correct.

A. The dates are correct, but, mostly at the end, the list does not seem to be complete. There are some gaps. Pertaining to the period from the 10th of April until the 21st of April, 1945 -- at that time the Grand Admiral participated for the last time at the briefing sessions in the Fuehrer's headquarters. Beyond that, it seems to me that the list of the people present is incomplete. I do not know with just what view or with just what idea in mind this list was compiled.

Q. Look at the list of people given. Was Admiral Doenitz present and was he with these people constantly on these dates mentioned, or does this mean only that these persons were at the Fuehrer headquarters together with him? Can you still recall these points?

A. Yes. If these people participated in the military briefings, then Doenitz at least saw them. Of course, people in high positions were frequently at the Fuehrer headquarters who did not participate in the briefing sessions, and these people the Grand Admiral did not see during these visits.

Q. For what reason did Admiral Doenitz --

SIR DAVID MAXWELL-FYFE: My Lord, upon this point, if the witness is saying that any one of these minutes is incorrect, I should be very grateful if he would specify it, because we can get the original German minutes here and

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and confirm the affidavit.

Mr Lord, the witness has said that he thinks these are incorrect. They are summaries of the minutes, and if he wants to say that any one is wrong, I shall be very glad to get the minutes and compare it.

DR. KRANZBUEHLER: I believe the witness said only that additional people participated in these discussions and that, at the end, some of the conferences are lacking. However, I do not know just what he has to say. Perhaps the prosecution will deal with that matter in cross examination.

THE PRESIDENT: But Sir David wants him to specify which are the ones, if he can. He wanted him to specify, if he could.

DR. KRANZBUEHLER: Very well.

BY DR. KRANZBUEHLER:

Q. Admiral, can you tell me more exactly, as to any one of these dates, whether those present are correctly names, or whether there were other people present, or whether Doenitz was not present?

A. I can only tell you exactly that this list is incorrect because it did not ever occur that not either Field Marshal Keitel or Colonel-General Jodl were present at the headquarters. For example, on 4/3/45, neither one of those men is mentioned, nor on 6/3 or 8/3. Therefore, I conclude that this list cannot be complete. In other wpots, however, the name of Jodl is seen; for example, on the 18th of March, 1945.

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Q The decisive point seems to be whether Admiral Doenitz participated and was present in the Fuehrer headquarters on all of these days. Can you confirm that point?

A From memory I cannot confirm as to the veracity of each day but I am of the opinion that the list is correct in that connection, for the frequency of the visits of the Grand Admiral corresponds with the things set down in this list, and spot checks show me that the dates are correct.

Q For what reason did the Commander in Chief come to the Fuehrer headquarters? What were his reasons?

A The chief reason of the frequent visits, which became even more frequent toward the end of the war, was the intention to keep abreast of the development of the general war situation so that he, Doenitz, could carry on the leadership of the Navy and the Navy war in accordance with the general situation; and among that, mostly, or frequently, points were to be regarded or to be discussed which the Grand Admiral out of his own authority could not decide for himself but because of their importance he wanted to report on them personally for points which he wanted to discuss with the representatives of the OKW and of the General Staff, and wished to discuss them personally.

Q In each of these cases was there a personal report of the Grand Admiral to the Fuehrer?

A The matter was as follows: Most of the problems for the Fuehrer took place when the general Naval matter was discussed. This matter was taken care of then.

Q Was the Grand Admiral present at the military briefing sessions when he was at the headquarters?

A The Grand Admiral took part at least at the chief session every day.

Q And what is the chief session?

A Every afternoon there was a briefing session which took place every day and lasted several hours. This I amreferring to as the chief session; but beyond this, and perhaps for months sometimes in just an exceptional case there was an evening session at whichthe Grand Admiral participated only when it was to be expected that certain measures were to be discussed which applied to his Navy and were especially important for him. And that is what I meant.

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Q Then you said that most of the questions which the Admiral had to put to the Fuehrer, were taken care of at the main briefing. Were there personal reports?

A Personal reports on the part of the Grand Admiral to Hitler were very seldom. Personal discussions with the OKW and the other military departments at the headquarters, that was something which took place daily.

Q Now, I would like to know something more in detail about the so-called Lagebesprechungen, the briefing session. The prosecution seems to consider this briefing session as sort of a fourth Cabinet at which, for instance Ribbentrop would report about foreign policies, Speer about questions of production. Himmler about security questions. Is this a correct picture? Who participated regularly and who came in just once in a while?

A The participants at these briefing sessions were generally the following: The permanent participants from the OKW, Fieldmarshal Keitel, Colonel General Jodl, General Buhle, Captain At Sea Assmann, Buechs, and a few others. Then the Chief of the General Staff of the Army with one or two aides generally; also the Chief of the General Staff of the Air Force -- the Chief of the General Staff of the Air Force with one or two aides.

For the permanent members, the Chief of the Army Personnel Office, General Bodenschatz, until the 20th of July, 1944; Vice Admiral Voss, who was the permanent Deputy of the Grand Admiral; Gruppenfuehrer Fegelein, Colonel Deputy Hewel; Sonnleitner, permanent Deputy of the Foreign Ministry; Reich Press Chief, Dr. Dietrich. Frequently the following participated: Commander in Chief of the Luftwaffe; quite frequently Himmler; in addition to these there was a varying participation on the part of special officers from the General Staff of the Army and from those who were just present first, Commanders in Chief of the Army and of the Air Force.

Beyond that, toward the end of the war there participated also in an increasing measure Reichsminister Speer, in his capacity as Armament Minister, and in other very

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seldom cases the Foreign Minister von Ribbentrop. And they were there as listeners.

I believe that seems to be a complete quota.

Q Who reported at these briefing sessions and what was reported on?

A These briefings had the sole purpose to tell Hitler about the situation, the war situation, and to tell him through the General Staff of the Army about the Eastern situation through the OKW, about the situation on all other theaters of war, and concerning all three branches of the Wehrmacht. The situation report took place as follows:

The Chief of General Staff of the Army reported about the Eastern situation; then Colonel General Jodl reported on the situation in all other theaters of war on land. Then Captain Assmann of the OKW reported on the situation on the sea; then the last, Major Buechs from the OKW, reported on the air situation; and in between frequehtly conversations took place which dealt with military specific problems, sometimes for aircraft, aerial problems. And when the aerial problems were dealt with the situation was cleared up, the meeting was concluded, we left the room. And I saw frequently the Ambassador Hewel had a batch of reports from the Foreign Office, brought them to Hitler, reported on them without the rest of us knowing just what did take place.

Q In these briefing sessions was there voting or was there consultation, or who gave the orders?

A In these briefing sessions the military questions were discussed and frequently decided on a military basis by the Fuehrer, that is, that no further preparations for decision were called for.

Q What did the Foreign Minister von Ribbentrop do there when he was present?

A I saw Foreign Minister von Ribbentrop perhaps five or six times at these briefing sessions and I cahnot remember that he participated or uttered any statement during the entire session. He was there for his own information and participated at this situation report.

Q How about Minister Speer, what was he doing there?

A Minister Speer as well came during this briefing session, very seldom had a word during the discussion. I know that questions of armament

were discussed between Hitler and Speer but they were dealt with in special discussions and conversations. But there may be some exceptions to this in this case.

Q What was Himmler doing there, or his permanent Deputy Fegelein, discussing questions of security, or what was his mission?

A No. During the military briefing session security problems were not mentioned at all. Himmler and his deputy appeared, they appeared very frequently, in connection with the Waffen SS, and Fegelein had to give permanent reports about the deployment of the SS divisions. At this time the SS divisions in my opinion played an especially large part, for, ostensibly, they were a part of the strategic part of the Army and therefore had to be dealt with.

Q I have a record which was given by you. It has the number GB 209 and it says in the third paragraph -- I will read one sentence to you -- in the document of the Prosecution, GB 209, Mr. President -- it is not found in any document book and I am just reading one sentence. It says there the Deputy of the Reichsfuehrer SS at the Fuehrer headquarters SS Gruppenfuehrer Fegelein brought about the question of the Reichsfuehrer when the Panzer -- that is, when the tanks, could be counted on.

Is that a typical mission of SS Fegelein?

A Yes. That was the kind of questions which were dealt with as a matter of course at every one of these sessions.

Q Do you know, where Kaltenbrunner appeared several times also, did he speak or report?

A I cannot remember one single utterance on Kaltenbrunner's part during one of these military briefing sessions.

Q What role did Admiral Doenitz play at these session discussions?

A When Grand Admiral Doenitz was present the Naval situation was reported by the deputy from the OKW, Assmann, but the Grand Admiral used the occasion of the naval war problems in connection with the individual theaters of war; or at the end, he reported on those questions and discussed those questions which he had wanted to present. As for as question of the war by air or by land was concerned, it had no connection with the naval war. The Grand Admiral was neither asked nor did he give any opinion. In his statements he strictly confined himself to the sphere of the war Navy, and very energetically

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objected if someone else during the situation discussion tried to interfere in his sphere of influence.

DR. KRANZBUEHLER: Mr. President, I have now concluded this series of questions.

THE PRESIDENT: Very well. We will adjourn.

(A recess was taken until 1400 hours)

H0130-0043

Official transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 13 May 1946, 1400-1630, Lord Justice Lawrence presiding.

THE PRESIDENT: The Tribunal will adjourn this afternoon at 4:30 in order to sit in closed session.

ADMIRAL WAGNER -- Continued

DIRECT EXAMINATION -- Resumed

BY DR. KRANZBUEHLER:

Q Admiral Wagner, as time went by, a close relationship developed between Admiral Doenitz and Adolf Hitler. Was this due to the fact that Admiral Doenitz was particularly willing to obey the Fuehrer's wishes?

A No, not at all. Admiral Doenitz's activities as Supreme Commander of the Navy began with a very strong controversy between him and Hitler. It was Hitler's intention that the large ships of the navy, that is to say, the remaining battleships and cruisers, were to be dismantled. Grand Admiral Raeder had already turned down that plan.

Q That story is already known. You need not go into it in detail.

A Very well. Apart ffom that, Hitler's respect for Doenitz was due to the fact that every statement which the Grand Admiral made was absolutely reliable, absolutely honest. The Grand Admiral attributed particular importance to the fact that, particularly, unfavorable developments, failures and such, were to be reported at Headquarters without fail, clearly and without excuses.

As an example, I should like to mention that the Grand Admiral had given me the order --

THE PRESIDENT: I do not think we need examples of that sort of thing. Surely, the general statement is sufficient.

Q Did the Grand Admiral in any way show himself particularly willing to obey the Fuehrer's political wishes or those of the Party?

A No. Such wishes of the Party were, in my opinion, only put to the Navy in three cases. One was the question of churches, which happened during the time of Grand Admiral Raeder, and I think it is generally known that the Navy retained its original religious organization and, in fact, extended it as the navy grew.

The second request made by the Party was that, according to the Russian example, political commissars should be appointed within the armed forces. In that case, Grand Admiral Doenitz went to Hitler and prevented that intention.

When, after 20 July 1944, Bormann, nevertheless, achieved that the so-called N.S.F.O. -- the National Socialist Leader Officers -- were appointed amongst the armed forces, this did not happen in accordance with the Party's wishes or by appointing political commissars. It was merely done by using officers who were under the jurisdiction of commanding officers and who could not in any way interfere with the discipline or the leading of the troops.

The third case was the intention on the part of the Party that the political proceedings should be taken away from the armed forces.

Q Yes, witness, that case is already known to the Tribunal, also.

You prepared the records regarding the visits at the Fuehrer's Headquarters, is that correct?

A Yes.

Q A number of these minutes have been introduced as evidence in this Courtroom. Will you please explain to the Tribunal what the purpose of keeping these records of all visitors to the Fuehrer's Headquarters was?

A The Chief of the Naval Command Staff and the Chief of Navy Armaments Department, as well as the Chief of the General Navy Department -- that is to say, the three leading men in the Supreme Command of the Navy -- were to be informed by means of these records of all events which took place in the presence of the Grand Admiral, as far as they were of any significance or interest for the navy. That was part of my task.

Q You have just said "informed about events which took place in the presence of the Grand Admiral". Does that mean that he must have heard everything himself that has been put down in these records?

A Not absolutely necessarily. It happened quite frequently that during situation reports, when they took place in large rooms, and

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particularly during subjects which did not interest him so much, the Grand Admiral would retire to another part of the room and deal with some business of h. own to discuss navy questions with other participants in the meeting. It was perfectly possible that on such occasions I heard things and put them down in th record which the Grand Admiral did not hear himself, but, of course, he would hear of them not later than when he saw my record.

Q I am going to have one of your own records shown to you. It deals with a conference on 20 February 1945. It is Number GB 209, and it is contained in the document book of the Prosecution on page 68. This deals with considerations regarding the renouncing of the Geneva Convention. Will you please descril how all this happened?

A Approximately two or three days before the date in this record -- in other words, on or about 17 or 18 of February 1945 -- Admiral Foss called me from the Headquarters, which at that time was situated in Berlin, and informed me that in connection with Anglo-Saxon propaganda regarding the going over of ou troops in the West, Hitler had situated his intention to leave in the Geneva Pac

Q What was the aim of itsgoing to be?

A According to the impression that I had at the time, the intention was obviously to express to the troops and the German people that captivity would no longer bring any advantage. I immediately telephoned the Naval Command Staff, since I considered the intention to be quite wrong, and I asked them to give me their military and international law comments on that subject.

On the 1st, when taking part in the situation discussion, Hitler once more referred to this question, but this time not in connection with matters of the Western front but in connection with the air attacks by the Western enemies on open German towns, attacks on places like Dresdren and Weimar, which had just taken place.

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He ordered the Grand Admiral that he should examine the results and the effects of leaving the Geneva Convention from the point of view of the naval expert. I don't think an immediate answer was expected and it wasn't given. Colonel General Jodl was also quite strongly opposed to these intentions and he was seeking the Grand Admiral's support for his views. Consequently, a conference was agreed on, and that is the conference the record of which I prepared and to which I referred under Figure 2.

Q That is the conference of February the 20th, isn't it

A Yes.

Q Who participated in that conference?

Q Grand Admiral Doenitz, Colonel General Jodl, Ambassad Hewel and myself.

Q What was the subject?

A Its subject was the Fuehrer's intention of renouncing the Geneva Convention and we were of the agreed opinion, all of us, that such a step would be a mistake. Apart from milita considerations there was that particular reason that by renouncing the Geneva Convention both the armed forces and the German people would lose some of its confidence in their leaders, since the Geneva Convention was considered the leading feature in international law.

Q In your notes there is a sentence: "It would be better to carry out the measures considered necessary without warning and at all costs 'to save face' with the outer world." What is the significance of that sentence?

A This sentence has the meaning that by no means should there be any wild actions; that if the leaders at the head considered it necessary to introduce measures against air attacks on German towns or against the propaganda for desertio in the West, then one ought to stay within the limits which would be applicable to any such countermeasures; the renuncia-

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tion of all the Geneva pacts was not to put us in the wrong before the world and our own people and no measures ought to be announced which would be well beyond the limits of the applicable law and order.

Q Were any concrete measures discussed in this connection or were any such measures even thought of?

A No. I can remember very well that no measures, in detail, were discussed during the various discussions. We were merely concerned with the legal situation which would arise if the Geneva Convention was renounced.

Q Did you ever learn anything about a so-called intention Adolf Hitler's part to shoot ten thousand prisoners of war as a reprisal for the attack on Dresden, the air attack?

A No, I have never heard anything about that at all.

Q The expression "to save face", doesn't that mean some secret goings on? Does it mean that the true facts were to be kept secret?

A In my opinion it was certain that no secret was thought of in any case and that neither reprisal measures against air attacks nor intimidating actions against the desertion to the enemy was considered; that they wouldn't help if one had kept them secret.

THE PRESIDENT: Dr. Kranzbuehler, the transmission came through to me, Prosecution's Document Book, page 68. Is that right or not?

DR. KRANZBUEHLER: Yes, Mr. President. Page 69 it should be I am told. Oh, I do beg your pardon. It is probably entered wrongly in my book.

BY DR. KRANZBUEHLER:

Q How long did this whole conversation last which you have taken down in this connection?

A Perhaps you can tell me which conversation you are talking about?

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Q I am talking about the conference of the 20th of February which contains the sentences which I have just read to you?

A I should say it took ten minutes or a quarter of an hour.

Q So that your record is abbreviating things a great deal, isn't it?

A Yes, it only contains the important points.

Q Did Admiral Doenitz report his objections to the Fuehrer?

A As far as I can recollect, he never got down to doing that. One became convinced that Hitler, as soon as he put

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his questions to the Grand Admiral, could gather from the Grand Admiral's expression and the attitude expressed by all the others that his intentions were being objected to by everybody. We passed our views on to the Supreme Commander of the Armed Forces in writing and heard no more about the whole matter.

Q. I am now going to show you another record. It is GB-210 and it can be found on the next page of the Document Book of the Prosecution. It refers to a conference at the Fuehrer's headquarters of the 29th of June, 1944. You will find an entry under the date of the 1st of July which says that regarding the general strike in Copenhagen the Fuehrer says that the only weapon to deal with terror is terror. Was this statement made during a conversation between Hitler and Admiral Doenitz or when did it take place?

A. This is a statement made by Hitler during a discussion which was neither addressed to Admiral Doenitz nor to the Navy at all.

Q. Well, if it wasn't addressed to the Navy, then why did you include it in your record?

A. I included everything that was said in my record, everything that was of any interest or could be of any interest to the Navy. The Supreme Command o the Navy did, of course, find itself interested in the general strike in Copenhagen because our ships were being repaired in Copenhagen, and apart from that it was a base, Copenhagen was a base.

Q. And to whom was this record passed on by you?

A. According to the distribution list on page 4, it only went to the Supreme Commander and Department 1 of the Naval Command staff.

Q. Did the Naval Command staff have anything to do with treatment of shipyard workers in Denmark?

A. No, nothing at all. Shipyards, after 1943, were entirely under the jurisdiction of the Armament Minister.

Q. The prosecution considers this sentence, this statement and its passi on to the OKW and the Supreme Command an invitation for bad treatment of all inhabitants. Does that in any way tally with the meaning of this record?

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A. You can't possibly say that. The only purpose of this record was to inform the departments and the Supreme Command.

Q. I am now going to have another document shown to you. Its number is US-544. It is contained in the Document Book of the prosecution on pages 64 and 65. It is a notice of the International Law Expert in the Naval Command Staff regarding the treatment of saboteurs. Do you know this document?

A. Yes, I have signed it. I have initialed it on the first page.

Q. At the end of that notice you will find the sentence that for the Navy it is to be ascertained whether the event can not be used to ascertain that members of command on troops and their treatment should be completely clarified in all the departments concerned. Admiral Doenitz had been Supreme Commander of the Navy at that time for ten days. Did he actually receive the report?

A. No, that report was not made, as the various remarks at the head of it will show.

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Q Please, will you explain that?

A The international law expert in the Naval Command Staff did make the suggestion through the head of Department 1-A. This went to me and then to the chief of the Operations Staff. The head of the 1-A in a handwritten notice at the side of his initials wrote down that the subordinate commanders have been informed. That means that he had objected to the suggestions of the international law expert and he considered that an explanation of the orders within the Navy were superfluous. I investigated this matter and I made a decision which was that the operations officer was right.

I sent for the International law expert, Dr. Eckhardt, and informed him orally of my decision and returned this document to him. This means that the suggestion made in this connection regarding the report was not actually carried out.

Q Can you remember whether Admiral Doenitz on some later occasion had a report on this matter regarding this command order?

A No, I have no recollection.

Q GB 208 is a report regarding a motor torpedo boat at Bergen which has been submitted to you. This is contained in the British document book on page 66 and 67. Have you ever heard about this story before this trial?

A No. I head about it for the first time on the occasion of interrogations in connection with these proceedings.

Q The files of the British court martial proceedings which had been submitted during cross-examination by the Prosecution have indicated to me that before the shooting of the crew of that torpedo boat there had been two telephon calls. They took place between the chief of the Security Service in Bergen and the SD at Oslo and between the SD at Oslo and Berlin. Can you recollect whether such a call from the SD at Osll arrived at your office or at an office in your department?

A Certainly no such call reached me and as far as I know it did not reach any other officer in my department or the supreme command.

Q Do you consider it possible at all that the SD at Oslo might get in touch with the supreme command of the Navy?

A No, I consider that quite out of the question. If the SD in Oslo wants to get in touch with a central department in Berlin then it would have to

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be his own superior department in Berlin and that is the RSHA.

Q I now put to you another document; it is GB 212 and it appears on page 75 of the document book of the Prosecution. An example is mentioned there where the chief or the commandant of the German prisoner of war camp is concerned and it says he had communists removed quietly from the camp; he had them removed and killed if they became noticeable in the camp. Do you know of this story, as such?

A Yes, such an episode is known to me. I think we received a report from a prisoner of war who had been severely injured and who had been exchanged. It was said that the German commandant of a prisoner of war camp in Australia, in which the crew of the auxiliary cruiser "Cormorau" were detained, had secretely had a man of his crew killed because he had been active as a spy and traitor.

Q But this order does not mention the word "spy." It says "communist." What is the explanation?

THE PRESIDENT: It does not say "communist." It says "communists" in the plural.

DR. KRANZBUEHLER: I beg your pardon, yes, "communists."

A (continued) In my opinion the only explanation is that the true state of affairs was to be concealed so as to prevent the enemy intelligence from getting hold of the story and making difficulties for the man in question. Thus, a different version was chosen.

Q It has been the opinion of the Soviet Prosecution that there had been a plan regarding the silent removal of communists. Can you tell us anything, knowing the origin of these orders, whether such a plan existed?

A First of all the order had been addressed to those personnel departments which were responsible for chosing young non-commissioned officers in the Navy. There were about six or seven personnel departments of that type. Over and above that I can only say that of course --

Q Just a moment, Admiral, please.

THE PRESIDENT: Dr. Kranzbuehler, is it necessary to go into all this detail? The question is, was there an order with reference to making away with people of this sort or was there not -- not all the details, but how the order came to be made.

DR. KRANZBUEHLER: In that case I shall put the question this way.

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BY DR. KRANZBUEHLER:

Q Was there any order or any desire according to which there was a pl that communists were to be removed quietly and without its being noticeable?

A No, such an order or such a plan did not exist. Of course, there wa a considerable number of communists in the Navy, something which was known to every officer. These communists in the majority did their duty as Germans just as well as any other German.

Q Admiral Doenitz has been accused by the Prosecution that as late as the spring of 1945 he advised the continuation, the hanging on in the war. This had been called evidence for the fact he was a fanatical Nazi. Did you and the majority of the Navy regard him as such?

A No, the admiral's attitude was not considered to be political fanaticism. It was considered that he was feeling his natural duties as a soldier t the last. I am convinced that that was the view of the great majority of the en tire German Navy, the non-commissioned officers and the officers.

DR. KRANZBUEHLER: Mr. President, I have no further questions to put to this witness,

THE PRESIDENT: Does any other defendant's counsel want to ask questions

DR. SIEMERS: Dr. Siemers, defense counsel for Grand Admiral Raeder.

BY DR. SIEMERS:

Q Admiral Wagner, you have already briefly sketched the positions you have held. I should like to make quite sure who in the Naval Command Staff was a leading position under Grand Admiral Raeder and I am thinking of the decisive years before the outbreak and after the outbreak of the war. Who was the chief of staff during the last two years before the war, the beginning of the war?

A The Chief of Staff of the Naval Command Staff from 1938 until 1941 was Admiral Schniewind. From 1941 until the retirement or even after Raeder's retirement was Admiral Fricke. These, therefore, were the two officers who worked under Admiral Raeder in the Naval Command Staff in the highest commissions. They were the immediate advisers of the Grand Admiral.

Q And the Naval Command of several departments, didn't they?

A Yes, it consisted of several departments which were given consecutive numbers.

Q And which was the most important department?

BY THE PRESIDENT:

Q Admiral Wagner, will you kindly make a pause after the question and observe the lights? When that yellow light goes on, it means you are going too fast?

A Yes, sir.

The most important department was the Operations Department, which had No.1.

BY DR. SIEMERS:

Q And the other departments, 2, 3, what were they doing?

A That was Department Communications and Information, and Department for the Obtaining of Information?

Q Who was the chief of the Operations Department?

A Beginning in 1937 and until 1941 it was Admiral Fricke. From 1941 until after Raeder's retirement I was the chief of that department.

Q In other words, for many years you worked under Grand Admiral Raeder. I should first of all like to ask you to speak briefly about Raeder's principal points of view during the time you were working for him.

A Under Grand Admiral Raeder the Navy was working for a peaceful development in cooperation with Britain. Questions regarding the type of ships, training and tactical schooling in the foreground. As far as aggressive wars were concerned, Grand Admiral Raeder did not during any conference which I attended ever refer to them. Nor did he at any time make any preparations in that direction.

Q Do you remember that in 1940 and in 1941 Raeder talked emphatically against a war with Russia?

A Yes, he was very keenly opposed to a war with Russia, and that for two reasons: first, that he considered that a break with Russia was wrong and not tenable, and second, for strategic reasons he was convinced that our entire strength should be concentrated on the fight against Britain.

When in the autumn of 1940 it transpired that the invasion of Britain couldn't be carried out, the Grand Admiral worked for a strategy in the Mediterranean, so that Britain's policy of encirclement should be fought against in that manner.

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Q The Navy had comparatively numerous dealings with Russia during the time there was friendship between Russia and Germany. This was due to supplies. Did everything in that respect, as far as you know, run smoothly?

A Oh, yes, I know that a large number of supplies, of deliveries, from naval stocks, did go toRussia; for instance, completed ships, heavy artillery and other such material.

Q And the Navy, of course, always made efforts to obtain the point of view laid down in the Pact?

A Yes, that was the Grand Admiral's point of view.

Q Admiral Wagner, Admiral Raeder has been accused by the Prosecution that he had never bothered about international law and that he had broken international contracts as a matter of principle if ever this were practical. Can you say anything about his opinions and views in that respect?

A Yes, that is completely wrong. Admiral Raeder was always anxious that every measure for naval warfare introduced be examined from the point of view of international law. We had a special expert on international law on the Naval Command Staff for that purpose, and we on the Operations Staff had nearly daily contact with him.

Q Furthermore, Raeder has been accused by the Prosecution of inviting and advising the waging of a war against Russia, and that he had tried to get Japan to fight the United States. What is your opinion on that?

A I consider that there is no basis for such an accusation. I know that Grand Admiral Raeder attached particular importance to it, that all naval war measures -- and this is especially applicable to the critical year of 1941 -- were to be examined very closely regarding the effects they might have on the United States of America. He has in fact forfeited a number of perfectly sound military measures so as to prevent incidents with the U.S.A. For instance, in the summer of 1941, he ordered that in a large area outside the U.S.A. submarines should be withdrawn, although that area could certainly be regarded as the free seas. A certain mine-laying action which had already begun against the British port of Halifax, in Canada, was forbidden byhim, so as to prevent at all costs the situation where a United States

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steamer should strike such a mine. And finally, attacks also against British destroyers in the North Atlantic were forbidden by him because of those fifty destroyers which had been handed over to England by the United States. Out of this fact there was the possibility that British and American destroyers could be mistaken for each other.

All this was done at a stage when the United States were at peace and had nevertheless occupied Iceland, when British warships were being repaired in American shipyards, when American naval forces had orders that all German units should be reported to the British fleet and when finally President Roosevelt in July, 1941, gave the order to his forces to attack German submarines on sight.

Q. Did Admiral Raeder ever make a statement in the Naval Command Staff tha there were no objections to a war against America and that the American fleet and American submarines weren't worth much?

A. No, Admiral Raeder as an expert could hardly have made any such unreasonable statement.

Q. Didn't Raeder, to the contrary, state expressly that he considered the American fleet very strong and that one couldn't fight simultaneously two such first-rate powers as American and Great Britain?

A. Yes, and we were perfectly aware of the fact that America's entry into the war would mean a most substantial strengthening of the enemy forces.

Q. But then on one occasion Grand Admiral Raeder had suggested in a war diary that Japan ought to attack singapore. Was there any discussion about Pearl Harbor in connection with that in the Naval Command Staff?

A. No, not at all. The attack by the Japanese on Pearl Harbor was a complete surprise, both to the Grand Admiral and the Naval Command Staff, like any other department. That is my conviction.

Q. Weren't there any continuous naval-military discussions and conferences between Japan and Germany?

A. No, before the entry in the war with Japan, no military discussions in my opinion and in my conviction took place.

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Q. I should now like to show you Document C-41--

(Addressing the President) Mr. President, this is GB-69. Later on, the British Delegation will submit it in the Document Book against Raeder, and I don't know now whether I can refer to it at this time. It is not contained in the trial brief against Raeder. The new Document Book, C.H. contains it on page 18.

THE PRESIDENT: You can put it in now, if you want to. You can offer it in evidence, if you wish. It is already in evidence through the Prosecution. So you can put it to the witness.

DR. SIEMERS: The Prosecution has mentioned it, yes.

THE PRESIDENT: Very well.

Q. This is a document signed by Admiral Fricke and it is dated the 3rd of June, 1940. It is headed, "Expansion of Areas on the Question of Bases." Detailed consideration of future plans is contained that document, and I should like to ask you if Raeder had given the order to prepare this memorandum or how it happened that this memorandum was compiled.

A. Grand Admiral Raeder did not give the order to draft this memorandum. This constitutes personal theoretical thoughts of Admiral Fricke regarding the possible developments and possibilities for the future. They are pretty fantastic, and they had no practical significance.

Q. Was this study discussed in a large group in the Naval Command Staff or was it conferred about?

A. No, in my opinion, only the operations officers had knowledge of this document which in its entirety proves that this isn't a well-thought out study made by order of the Grand Admiral but some thoughts jotted down at the moment they occurred to Admiral Fricke.

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Q Was that document passed on to any outsiders at all?

A I think I can remember that this document wasn't sent to anybody outside. It was used only within the operations department. The Grand Admiral, too, in my opinion did not have knowledge of it, particularly since this letter shows that he didn't initial it.

Q You have a photostat copy of that letter. Are there any other initials on it which might show that this was put before Grand Admiral Raeder? How was this sort of thing generally handled in the Naval Command Staff?

A Every document that was to be put before the Grand Admiral had on its first page, in the left margin, a remark saying "to be put before the GA before dispatch" or "to be reported during situation reports". And then on that spot the Grand Admiral would initial it with a green pencil or the officers of his personnel staff would indicate that it's been put before him or give some such indication.

Q And there are no such indications on this document, are there?

A No, no.

Q I should now like you to see document C-38, which is a document of the Prosecution. Its number is GB-223. It is contained in Raeder's document book of the Prosecution on page 11. The war between Germany and Russia began on the 22nd of June, 1941. According to the last page, or, rather, last but one page of the document, the Supreme Command of the armed forces in Germany had, as early as the 15th of June -- that's the week before the outbreak of the war -- ordered the use of arms against enemy submarines near the southern corner of Memel. This is supposed to have been done following an application from the Naval Command Staff. The Prosecution are basing the accusation on this document, and, once more, referring to an aggressive war, and, unfortunately, the Prosecution

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have only submitted the last page of this document. They did not produce the first and second page of the document because, if they had done so, then this accusation would probably have been dropped. May I put it to you, Mr. Witness, what is contained there, and I quote:

"On the 12th of June, at 2000 hours, one report came from the guarding vessels which had been put into their station at 2000 hours, 20 sea miles west of Oslo, that there had been sighted an unknown submarine which had surfaced and was proceeding on a westerly course, after being called by wireless and replied with a letter to which no significance could be attached."

May I ask you to explain what it means that this U-boat did not, first of all, reply to ES call?

A In wat there is amongst war ships of the own fleet the arrangement of recognition signals; that is to say, that there is a call and a reply. By this means the identity of the ship and its origin can immediately be ascertained and, if there is a wrong answer to an ES call, then this proves that this was not a vessel of the own fleet.

Q Were there any other clues, as far as you can remember, of a similar kind showing that ships appeared which were clearly the ships of the enemy?

A Yes. I remember that there were individual cases when unknown submarines appeared of the German Baltic ports. Later on it was found that when the stations of our own submarines were consulted that these were indeed enemy vessels.

Q Were these facts the reason why the Naval Command Staff were asked that certain ships should now be fired on?

A Yes, exclusively.

Q A similar case is mentioned in connection with Greece. It has been ascertained from the war diary that on the 30th of December, 1939, the Naval Command Staff made an

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application to the effect that Greek ships in the American blockade zone and of Great Britain may be treated as hostile. Since Greece was neutral at the time, there has been an accusation of a breach of neutrality against Raeder.

May I ask you to tell us what the reasons were which caused the Naval Command Staff and the Chief Raeder to make such an application to the OKW?

A We had had the news that Greece had placed the bulk of its merchant navy fleet at the disposal of Great Britain and that these Greek vessels were sailing under the British command.

Q Well, then, is it not correct that such Greek vessels were not principally treated as hostile but only the American blockade zone?

A Yes, that is correct.

Q The next case, which is something similar, is that which occurred in June, 1942. The Naval Command Staff made an application to the OKW to be allowed to attack Brazilian ships, although Brazil at

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that time was still a neutral. The war with Brazil started some two months later on the 20th of August. What reasons were there for such a step?

A We were receiving reports from submarines from the waters around Sou America, according to which they were being attacked by aircraft, which could on have flown from Brazilian bases. To begin with, that question was clarified by means of inquiries, and it turned out that the reports were correct. Over and ab that, I think I can remember personally that even at that time it was generally known that Brazil was giving bases to the United States, with which we were at w or placing these bases at their disposal.

Q So that this was due to a breach of neutrality on the part of Brazil

A Yes.

Q I shall submit to you C-176 and D-658. The document C-176 has the nu ber GB- 228. These two documents are based on this command order. That's the or to destroy sabotage troops.

Raeder has been accused by the Prosecution that in connection with the or which occured in December 42, Raeder was participating. In the document C-176, its last page, you will find something which I shall quote.

"On the 11th of December 1942, shooting of the two captured Englishmen by a commando under the Port Commander at Bordeaux, numbering one to sixteen men, i the presence of an officer of the SD, the Security Service, and by order of the Fuehrer."

Previous entries, which I don't want to quote in detail would give the sa picture. And they show that the Secutiry Service, the SD, were including them in the proceedings and that they were in constant direct touch with the Fuehrer.

I am now asking you whether the Naval Command Staff and before these two prisoners were shot, did know anything at all about this matter, hear about it, o whether they knew anything about this direct order from Hitler which is mentione in this connection?

A A direct order for the shooting of people in Bordeaux did not in any way come to the Naval Command Staff. The Naval Command Staff knew the tactical events in connection with this enterprise in Bordeaux and, over and above that, knew nothing at that time.

H0130 - 0062

Q The Naval Command Staff or, respectively, Grand Admiral Raeder did, therefore, not discuss this case previously and it was not put to them, is that correct?

A I Am certain that this was not the case; that they did not hear about it.

DR. KRANZBUEHLER: Mr. President, may I ask the Tribunal to take notice of the fact that this war diary is not the war diary which has been frequently mentioned, the diary of the Naval Commander in the west, that is, therefore, unknown to the Naval Command Staff that this is why the Naval Command Staff did not know of this case..

THE PRESIDENT: You are referring to document C-176?

DR. KRANZBUEHLER: C-176, Yes, Mr. President, and likewise D-658. This in turn, is the war diary of the Naval Command Staff.

THE PRESIDENT: What was the reference to it?

DR. KRANZBUEHLER: This is D-658, which will show the following: According to reports of the armed forces, these two soldiers have since been shot. The measure would be in keeping by special order by the Fuehrer. That has been submitted by the Prosecution, and it shows -- and it is something I shall refer to later -- it shows the Naval Commander Staff knew nothing about the entire episode because, even this shows an entry dated the 9th of December, whereas the whole affair happened on the 11th.

THE PRESIDENT: Perhaps that would be the time to break off.

(A recess was taken)

H0130 - 0063

BY DR. SIEMERS:

Q Mr. Admiral, now I am submitting to you Document UK-45.

DR. SIEMERS: Mr. President, UK-45 corresponds to USSR-130. This document deals with a report by the SKL dated the 29th of September 1941, addressed to the Group North, and it deals with the future of the city of Petersburg.

This report to the Group North says that the Fuehrer had decided to raze the city of Petersburg from the face of the earth. The Navy itself was not to be concerned with that announcement. Despite that, this report was sent to Group North.

BY DR. SIEMERS:

Q Mr. Witness, I will return to this point, but I would like to ask you first -- you have a photostatic copy of the original --to please tell me whether Raeder knew and saw this document before he resigned, or could have seen it.

A According to the statement which I have made, Great Admiral Raeder did not see this document. There are no notices or other comments to that effect on the document.

Q And now the more important question on this point, relating to the report which is mentioned in Point 2 by Hitler. Why did the SKL, the Naval Warfare Command, receive this report and transmit it, even though the Navy itself was not concerned therewith?

A The SKL had ordered that as far as Leningrad was concerned, at the occupation or attack, the shipyards and the port installations and all other naval installations were to be spared so they might be used as bases later on. That suggestion, as set down in this document, was turned down by Hitler. That may be seen from Point 3 of this document.

This fact had to be reported to Admiral Karls so that he could act accordingly, and in the case of a later occupation of Leningrad he could not count on this port as a base.

Q Because of the significance of this testimony, I would like to call attention to the point to which the witness just referred, and that is III of USSR-130. I quote:

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"The original demand of the Navy to spare the docks, ports, and other installations important to the Navy, is known to the High Command of the Wehrmacht. The fulfilling of this demand, because of the attack on Petersburg, is not possible."

That was the decisive point which the SKL told Admiral Karls as Commander in Chief of Group North.

A That was the decisive point for this document.

Q Do you know whether Admiral Karls did anything with this document, that is, whether he transmitted it or disposed of it in any way, or don't you know anything about that?

A As far as I am informed, this document was not passed on, and it was not the intention that this document be passed on, for it was meant solely and exclusively for Group North. On the basis of this document, the preparations which Admiral Karls had made as far as the Navy was concerned were stopped, and the personnel which had been earmarked for this were put at other disposal. That was

H0130 - 0065

the only measure which the Navy took on the basis of this document, and the only measure which could have been taken.

DR. SIEMERS: Perhaps I might tell the Tribunal that in my document book Raeder, under No. 111, I should like to submit an affidavit which contains this fact, that nothing was passed on by Group North, so the leading docks and yards and their Commanders never had any knowledge of this document.

I am referring to an affidavit by Admiral Buetow, who at that time was Commander-in-Chief in Finland, and I should like to come back to this point when I present the case on behalf of Grand Admiral Raeder.

I have no further questions of this witness.

THE PRESIDENT: Does any other member of defendants' counsel wish to ask any questions?

The Prosecution may cross examine.

CROSS EXAMINATION

COLONEL PHILLIMORE: May it please the Tribunal, with regard to the questi asked by Dr. Siemers, I was going to leave the cross examination on those point to the cross examination of the defendant Raeder, so as to avoid any duplicatio

BY COLONEL PHILLIMORE:

Q As I understand the evidence which the defendant Doenitz has given, and your evidence, you are telling the Tribunal that in respect of the treatment of neutral merchant

H0130 - 0066

ships, the German Navy has nothing to reproach itself with. Is that right?

A. Yes.

Q. And the defendant has said that the German Navy was scupulous in adhering to orders about the attitude towards neutral shipping, and the neutrals were fully warned of what they should and should not do. Is that right?

A. Yes.

Q. Admiral Doenitz has also said that there was no question of deceiving neutral governments; they were given fair warning of what their ships should not do. Do you agree?

A. Yes.

Q. Now, I want just to remind you of what steps were taken as regards neutrals, as they appear from the defense documents.

First of all, on the 3rd of September, orders were issued that strict respect for all rules of neutrality and compliance with all agreements of international law which were generally recognized was to be observed.

COLONEL PHILLIMORE: My Lord, that is D-55, page 139.

THE PRESIDENT: In the British document book?

COLONEL PHILLIMORE: In the defense document book.

THE PRESIDENT: Defense.

COLONEL PHILLIMORE: Doenitz 55.

BY COLONEL PHILLIMORE:

Q. And then, on the 28th of September, a warning was sent to neutrals to avoid suspicious conduct, changing course, zig-zagging, and so on. That is Doenitz 61, page 150.

On the 19th of October, that warning was repeated and neutrals were advised to refuse convoy escort. That is Doenitz 62, at page 153.

H0130 - 0067

On the 22nd of October, there was a repitition of the warning, Doenitz 62, page 162; and on the 24th of November, the neutrals were told that the safety of their ships in water around the British Isles and in the vicinity of the French coast could no longer be taken for granted. That is Doenitz 73, at page 206; and then from the 6th of Januaryonwards, certain zones were declared dangerous zones. That is right, isn't it?

A No. On the 24th of November, a general warning was issued that the entire United States fighting zone was to be considered dangerous -- the specialized zones which, since January, were designated as operational zones, this was not made public since in the framework of the first warning, they stayed within the limitation and this was only for the internal use within the navy.

Q That is the point I want to be clear about. The zones that you declared from the 6th of January onwards, those weren't announced. Is that a fact?

A Yes; the neutrals were warned on the 24th of November that all of these areas which had been designated as operational areas, would be dangerous for shipping.

Q But when you fix the specific zones from the 6th of January onwards, no further specific warning was given. Is that the case?

A That is correct. After this general warning, there was no special or singular warning as to specific areas as to that.

Q Now, you are not suggesting, are you, that by these warnings and by this declaration of an enormous danger zone, you were entitled to sink neutral shipping without warning?

A Yes. I am of the opinion that in this area which, for us, since the United States of North America, as well as for the rest of the shipping, it was considered dangerous, consideration was not to be taken for neutrals.

Q Do you mean to say that from the 24th of November onwards, every neutral government was given fair warning that its ships would be sunk without warning if they were anywhere in that zone?

A I want to say that on the 24th of November, entirely all of the neutral countries were notified officially that the entire United States of

H0130 - 0068

America fighting zone was to be co idered as dangerous and that the German Reich could have no responsibility for losses in combat in this area.

Q That is quite a differe case. Don't let us have any mistake about this. Are you saying that y that warning, you were entitled to sink neutral ships anywhere in that zone without warning, sink on sight?

A I did not quite catch t last few words.

Q Are you suggesting that ou were entitled to sink on sight all neutral shipping anywhere in that one, as from the 24th of November?

A I am of the opinion that we were justified from that period of time onward to take no special consideration for neutral shipping. Each exception which we could have given our U-boats would have meant that they could not have sunk hostile ships either.

Q It isn't a question of any special consideration. Are you saying that you became entitled to sink on sight any neutral ship or sink it deliberately whether or not you recognized it asneutral?

THE PRESIDENT: Surely you can answer that question yes or no.

THE WITNESS: Yes, I am of t at opinion.

BY COLONEL PHILLIMORE:

Q Will you tell me how that declaration squares with the submarine rules?

A As far asa legal basis f this question is concerned, I do not believe that is competent. That is a matter for international law.

Q At any rate, that is what you proceded to do isn't it? You proceeded to sink neutral ships on sight and without warning anywhere in that zone?

A Yes; not just anywhere but in the operational zones laid down by us.

Q But where ver you could, wherever you could?

A In the operational zones laid down by us, without warning, for we are of the opinion that in this ca e, we were concerned with secured areas near the hostile coast

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whichcould not be considered the open sea.

Q And that is what you decided to do upon the very start of the war, wasn't it? That is what you decided to do?

A From the beginning of the war on, we decided to stay strictly to the London Agreement.

Q Would you look at the document which was put in yesterday. My Lord, it is D-851. It is put in as GB-451. It is a memorandum of the 3rd of September.

THE PRESIDENT: Where is it?

COLONEL PHILLIMORE: The only new document that Sir David Maxwell Fyfe put in cross examination.

BY COLONEL PHILLIMORE:

Q Would you look at the third paragraph: "The navy has arrived at the conclusion that the maximum damage to England which can be achieved with the forces available, can only be obtained if the U-boats are permitted an unrestricted use of arms without warning against enemy and neutral shipping in the prohibited area indicated in the enclosed map." Do you still say that you didn't intend from the start of the war to sink neutral shipping without warning as soon as you could get Hitler to agree to let you do so? Do you still say that?

A Yes, explicitly. In this document, in the first paragraph it says that in the material sent to thenavy, the question of unrestricted U-boat warfare against England is being discussed and I cannot judge these materials if they are not submitted to me.

Q You were in the General Staff at that time. You were in charge of the Department I-A. This point of view must have been put forward by your department.

A Yes. I said that already, we had decided after consulting with the Foreign Office, to adhere strictly to the London Agreement until we had proof that the British merchant shipping was armed militarily and was being used for military purposes. Here, we are concerned solely with an exchange of an opinion and informing of the Foreign Office.

Q I didn't ask for your general view on the document. We can read that for ourselves. Your object was to terrorize the small neutrals and frighten them ffom sailing on their ordinary lawful occasions. Isn't that right?

H0130-0070

A No.

Q And isn't that why, in the orders you issued in January of 1940, you excepted the larger countries from this "sink on sight" risk? Would you look at document C-21. That is GB-194, at page 30 of the prosecution document book in English; page 59 to 60 in the German. Now, just look. It is the second entry on page 5, the 2nd of January 1940. "Report by 1-A." That is you, isn't it? That was you, wasn't it?

A Yes, but I cannot find the point which you are quoting.

Q Page 5, the original, under the date of the 2nd of January 1940. "Report by 1-A on directive of armed forces — High Command — dated 30th of December, referring to intensified measures in naval warfare in connection with "Fall Gelb" (case yellow). "In consequence of this directive, the navy will authorize simultaneously with the general intensification of the war, the sinking by U-boats without any warning, of all ships in those waters near the enemy coasts in which mines can be employed. In this case, for external consumption, pretense should be made that mines are being used. The behavior of and use of weapons by U-boats should be adapted by this purpose." That has nothing to do with the arming of British merchant ships? That is not the reason that is given, is it? The reason is because it fitted in with your operations for "Fall Gelb".

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A I didn't understand the last sentence.

Q You don't give as your reason that the British were arming their merchant ships. The reason you give is that it was necessary in connection with intensified measures for Fall Gelb. Why is that?

DR. KRANZBUEHLER: The German translation is so inadequate that it is almost impossible to understand the question.

BY COLONEL PHILLIMORE:

Q I will put the question to you again. The excuse for this directive is to be the intensification of measures in connection with Fall Gelb. You notice, don't you, that nothing is said about the arming of British merchant ships as justifying this step? That is correct, isn't it?

A May I have time, please, to peruse this manuscript first?

Q Certainly. This was written by yourself, you know.

A No, that was not written by me.

Yes, the measures did concern and stay with the warning which was given to the neutrals on the 24th of November 1939.

Q Nothing is said about the warning of the 24th of November. If you were entitled, as you have told us, under that to sink neutral ships, there wouldn't be any need for this special directive, would there?

A No.

Q No. Now, let's just --

A (Interposing) Because of military reasons and politicalreasons we ordered that there was to be the excuse of mines, and that was the special point of this order.

Q And justbefore we leave that document, have a look at the entry on the 18th of January, will you? You have got it? 18th of January.

A Yes.

Q That is the actual order for sinking without warning. You notice the last sentence:

"Ships of the United States, Italy, Japan and Russia are exempted from thes attacks." And then Spain is added in pencil.

Isn't it right that you were out to terrorize the small neutrals and to bully them, but you weren't running any risks with the big ones?

A No, it wasn't like that. It is to be explained as follows: That, as a

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matter of course, military disadvantages are to be bargained for if political advantages are to be derived therefrom.

Q Oh, yes, it just entirely was a question of how it paid you politically. That is all it was, wasn't it?

A Yes, of course, since all military actions are determined by political bases.

Q And because the Danes and the Swedes weren't

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in any position to make any serious protest, it didn't matter sinking their ships at sight. That's right, isn't it?

A The motivation of this incident is entirely incorrect.

Q Well, but what is the difference?

A The ships of all neutrals in this area were sunk by us with the exception of those for which we had a special political interest.

Q Yes, you had no special political interest at this time for Norway and Sweden and Denmark, so you sank their ships at sight. That's right, isn't it?

A We sunk them because they entered this area despite warning.

Q Yes, but if a Russian ship or a Japanese ship did that, you wouldn't sink it.

A No, not at that point, not at that period of time.

Q I just want to show you what you actually did. Would you look at documents 846 and 847?

COLONEL PHILLIMORE: My Lord, they are two new documents. They will be GB-452 and 453.

BY COLONEL PHILLIMORE:

Q Will you look at the first of these, that is 846? That is a telegram from your Ambassador at Copenhagen, dated the 26th of September 1939. That is before your first warning and before any of these zones had been declared. The second sentence:

"Sinking of Swedish and Finnish ships by our submarines still cause great worry here, owing to Danish food transports to England."

You see, you had started sinking ships of the small neutrals right away in the first three weeks of the war, hadn't you?

A In single cases, yes, but there was always a very special reason in those cases. I know of some cases of Danish

H0130 - 0074

and Swedish ships which occurred in which these ships had turned toward the U-boat and the U-boat in turn, because of resistance, had to attack the ship.

Q You don't think it was because the blame could be put upon mines?

A At this period of time, not at all.

Q Look at the second telegram, if you would, 26th of March, 1940, again from the German minister at Copenhagen. It is the first paragraph:

"The King of Denmark summoned me to his presence in order to tell me what a deep impression the sinking of six Danish ships last week, apparently without warning, had made on him and on the whole country."

And then, passing on two sentences:

"I replied that the reason why the ships sank had not yet been elucidated. In any case, our naval units always kept strictly to the Prize Regulations, that vessels sailing in enem convoy or in the vicinity of the same took upon themselves all the risks of war, insofar as any

H0130 - 0075

sinkings had been carried out without warning. It seemed that they could be traced back to the German notifications made to date.

"At the same time, I pointed out the dangers of the waters around the British coast where neutral ships inevitably involved in compromising situations on account of measures taken by the British. The King assured me emphatically that none of the Danish ships were sailing in convoy, but it would probably never be possible subsequently to clear up without possibility of doubt the incidents which had led to the sinking."

Have you any doubt that those six ships were sunk deliberately under your sink-at-sight policy?

A Without checking the individual cases, I cannot answer this question, but I am of the opinion that possibly these ships were sunk in that area before the English coast was in those areas or becaouse heavy defensive measures at open sea could not obtain at that point any longer.

Q Very well. We will come to an incident where I think I can supply you with details. Would you look at Document D-807?

COLONEL PHILLIMORE: My Lord, that is a new document; it becomes GB-454.

BY COLONEL PHILLIMORE:

Q You see, this document is dated the 31st of January 1940, and it refers to the sinking of three neutral ships, the 'Deptford', the 'Thomas Walton', and the 'Garoufalia'. The document is in three parts. It first sets out the facts as they were known to you. The second part is a note to the Foreign Office, and the third is a draft reply for your foreign office to send the neutral governments. If you look at the end of the document you will see, 1-A; the document emanates from your department.

"It is proposed in replying to Norwegian notes, to admit only the sinking by a German U-boat of the SS'Deptford', but to deny the sinking of the two other steamers."

Would you follow it?

"According to the data attached to the notes presented by the Norwegian Government, the grounds for suspecting a torpedo to have been the cause of the sinkings do in fact appear to be equally strong in all three cases. According to the Norwegian Foreign Minister's speech of the 19th January, the suspicion in Norway of torpedoing by a German U-boat appears however, to be strongest in the

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case of the SS 'Deptford,' whereas in the other two cases it is at least pretended that the possibility of striking mines has to be taken into account; this is considered improbable in the case of the SS 'Deptford', anyhow, because other vessels had passed the same spot.

"The assumption that the SS 'Thomas Walton' struck a mine may be supported since the torpedoing occurred towards evening and nothing was observed, and since furthermore several explosions took place in the same area owing to misses by torpedoes.

"In the case of the SS 'Garoufalia', a denial appears expedient, if only because a neutral steamer is concerned, which was attacked without warning. Since it was attacked by means of an electric torpedo, no torpedo wake could be observed."

Do you say in the face of that that you did not deceive the neutrals? That is the advice you were given by the defendant Raeder as his staff officer, is it not?

H0130 - 0077

A. This memorandum did not emanate from me; it emanated from l i a, which are the letters of a certain expert in the department.

Q. You would not have seen it?

A. I do not recall this memorandum.

Q. Why do you say "emanated from l i a? It has "l a" at the end of it.

A. If this memorandum originated and was passed on, then I thought --

Q (Interposing) I will just read the next part of the note to remind you. "The following facts have thus been ascertained:" -- this is what you are writing to the foreign office --

"The steamer "Deptford' was sunk by a German U-boat on the 13th of December --"

I am sorry. I should have started earlier.

"It is suggested that Norwegian notes regarding the sinking of the Steamships 'Deptford', 'Thomas Walton' and 'Garoufaliea' be answered somewhat in the following manner:-

"As a result of the communication from the Norwegian Government, the matter of the sinking of the steamships 'Deptford', 'Thomas Walton', and 'Garoufalia' has been thoroughly investigated. The following facts have thus been ascertained:-

"The steamer 'Deptford' was sunk by a German U-boat on the 13th of December as it was recognized as an armed enemy ship. According to the report of the U-boat Commander, the sinking did not take place within territorial waters, but immediately outside. The German Naval Forces have strict instructions not to undertake any military operations within neutral territorial waters. Should the U-boat Commander have miscalculated his position, as appears to be borne out by the findings of the Norwegian Authorities, and should Norwegian territorial waters have been violated in consequence, the German Government regrets this most sincerely.

"As a result of this incident, the German Naval forces have once again been instructed unconditionally to respect neutral territorial waters. If a violation of Norwegian territorial waters has indeed occurred, there will be no repetition of it. As far as the sinking of the steamships 'Thomas Walton' and

H0130 - 0078

'Garoufalia' is concerned, this cannot be traced to operations by German U-boats, as none of them were in the naval area indicated at the time of the sinkings."

Then there is a draft reply put forward which is very much along the same line.

And you say in the face of that document that the German Navy never misled the neutrals?

A. The neutrals had been advised that in these areas, threats and dangers of war were to be encountered, and we were of the opinion that we were justified in not telling them through which war measures these areas were endangered, or which war measures would be used.

Q. Is that really your answer to this document? This is a complete lie, is it not? You admit one sinking; that you cannot get away from. And you deny the others. You deny that there was a German U-boat anywhere near, and you are telling this Tribunal that you were justified in order to conceal the weapons you were using. Is that the best answer you can give?

A. Yes, certainly. We had no interest at all in letting the enemy know what means we were operating with in this area.

Q. You are admitting that one of them was sunk by a U-boat. Why not admit the other two as well? Why not say it was the same U-boat?

A. I assume that we were concerned in an area in which the situation was different.

Q. What was the difference? Why didn't you say, "One of our U-boats has made a mistake, or disobeyed his orders, and is responsible for all these three sinkings"? Or, alternatively, why didn't you say, "We have given you fair warning we are going to sink on sight anyone in this area. And what is your complaint?"

A. It obviously was not expedient.

Q. It was considered expedient to deceive the neutrals. And you, an admiral in the German Navy, told me you did not do that, ten minutes ago. As a matter of fact, these three boats were all sunk by the same U-boat, were they not?

A. At the moment I cannot tell you that.

H0130 - 0079

Q. I say they were all sunk by U-38, and the dates of sinking were: the Deptford, on the 13th of December, the Garoufalia on the 11th, and the Thomas Walton on the 7th.

Do you dispute that?

A. I did not understand the last sentence.

Q. Do you dispute those details, or don't you remember?

A. I cannot recall; but I believe it is impossible.

Q. I will show you another instance of deceiving the neutrals; and this time it was your friends, the Spanish. Would you look at C-105?

COLONEL PHILLIMORE: My Lord, that is a new document; it becomes GB-455. It is an extract from the SKL War Diary for the 19th of December 1940.

BY COLONEL PHILLIMORE:

Q. You kept the SKL War Diary yourself at that time, did you not?

A. No, I did not keep it.

Q. Didn't you sign it?

A. I signed it.

Q. You signed it. Did you read it before you signed it?

A. The essential parts, yes.

Q. You see, it is headed "News from the Neutrals", and begins with "Spain." It reads:

"According to a report from the Naval Attache, a Spanish fishing-vessel was sunk by a submarine of unknown nationality between Las Palmas and Cape Juey. In the rescue boats, the crew was subjected to machine gun fire. 3 men badly wounded. Landed at Las Palmas on the 18th December. Italians suspected (also possibility it might have been U-37)".

Then, on the 20th of December, the next day:

"B.d.U. will be informed of Spanish report regarding sinking of Spanish fishing-vessel by submarine of unknown nationality on 16th December between Las Palmas and Cape Juey, and will be requested to conduct an investigation.

"On the responsibility of the Naval War Staff it has been confirmed to our Naval Attache in Madrid that, regarding the sinking, there is no question of a German submarine."

When you reported that, you thought it possible, did you not, that it might

H0130 - 0080

have been U-37; isn't that so?

A. It seems to me that it was not by a submarine.

Q. I will read on. This is under date of 21 December.

"U-37 reports: a torpedo fired at a tanker of the "Kopbard" type had a giro failure, and probably hit an Amphitrite submarine in the tanker's convoy. The tanker is burnt out. Spanish steamer 'St. Carlos' without distinguishing mark sunk by gunfire. 9 torpedoes left.

"According to this, U-37 has torpedoed the French tanker 'Rhone' and the submarine 'Sfax', as well as sunk the Spanish fishing-vessel."

Then, if you will read the next entry.

"We shall continue to maintain to the outside world that there is no question of a German or Italian submarine being in the sea-area in question for the sinkings."

So you still say that you did not deceive the neutrals?

A. This case is doubtless a case of deception, but I do not remember this deception was carried through, or what the reasons for it were.

Q. But it is creditable, is it not? Do you regard that as creditable to the German Navy, that conduct?

A. No.

Q. Did the defendant Raeder sign the War Diary?

A. Yes.

Q. Did you tell the other defendant, Doenitz, what answer you were giving to the Spaniards and the Norwegians?

A. That I do not recall.

Q He would get a copy, would he not?

A. I did not understand you.

Q. You would send him a copy, would you not, of your note to the Foreign Office?

A. That is possible.

THE PRESIDENT: Colonel Phillimore, does the signature of the defendant Raeder appear at the end of this document, C-105?

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COLONEL PHILLIMORE: My Lord, I regret to say I have not checked that. But as the witness has said, the practice was that he was to sign the War Diary, and that the commander-in-chief was to sign it periodically.

BY COLONEL PHILLIMORE:

Q. Is that right, witness?

A. Yes. On the next page, on the 12th, you can see my signature as well as those of Fricke, Schniewind, and Raeder.

DR. SIEMERS (Counsel for Admiral Raeder): Mr. President, I would be very grateful to the prosecution if the document which concerns the defendant Raeder would be given to me, for it is relatively difficult for me to follow the situation otherwise. None of these documents was given to me.

COLONEL PHILLIMORE: I am extremely sorry, My Lord. That is my fault, and I will see that Dr. Siemers has a copy tonight.

THE PRESIDENT: We will adjourn at this point until tomorrow morning.

COLONEL PHILLIMORE: My Lord, I am afraid I have a little more.

(A recess was takne until 1000 hours, Tuesday, 14 May 1946.)